

1985

Book #12

Roger J. Miner '56

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UNITED STATES DISTRICT COURT

UNITED STATES COURTHOUSE

FOLEY SQUARE

NEW YORK, N. Y. 10007

CHAMBERS OF
DAVID N. EDELSTEIN
JUDGE

RECEIVED

JAN 03 1985

U.S. DISTRICT COURT
NEW YORK, N.Y.

January 2, 1985

Honorable Roger J. Miner
United States District Judge
Northern District of New York
Post Office Box 868
Albany, New York 12201

Dear Roger:

It gave us a great deal of pleasure to be with you New Year's Eve. You and Jackie always add an extra dimension of joy.

Enclosed is a copy of the Payden opinion.

Warm personal regards and best wishes for a happy New Year.

Sincerely,


David N. Edelstein

Enclosure



OFFICERS

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JOHN P. FINNERTY, 1st V. PRES.
SUFFOLK COUNTY
GARY STEWART, 2nd V. PRES.
ONTARIO COUNTY
JOHN C. DILLON, SECRETARY
ONONDAGA COUNTY
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SERGEANT AT ARMS

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NEW YORK STATE SHERIFFS' ASSOCIATION INSTITUTE, INC.

37 First Street, Troy, New York 12180

Telephone: Area Code 518—Local Number 271-6171

PETER R. KEHOE
COUNSEL AND EXECUTIVE DIRECTOR

THOMAS A. MITCHELL
ASSOCIATE COUNSEL

CHRISTOPHER G. O'BRIEN
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January 17, 1985

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JAN 28 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

The Honorable Roger Miner
Albany Court House
Post Office Building
Albany, N.Y. 12207

Dear Judge Miner:

The New York State Sheriffs' Association will hold its 51st Annual Legislative Conference January 20 - 23, 1985 at the Americana Inn in Albany. In conjunction with the Conference we are inviting some of our colleagues in New York's criminal justice system to join us for a very informal cocktail party on Tuesday evening from 5:30 to 7:30. The gathering will be in the Americana's Lodge Room. We hope you may have an opportunity to stop by and meet the Sheriffs that evening.

Very truly yours,

PETER R. KEHOE
Counsel and Executive Director

PRK:rg

LIONEL A. HURST, M.B.A., J.D.
880 COLGATE AVE. SUITE 17A
BRONX, NEW YORK 10473
(212) 893-3284

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FEB 4 - 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

January 17, 1985

Judge Roger J. Miner
Federal District Court
Northern District of New York
Albany, NY

Dear Judge Miner:

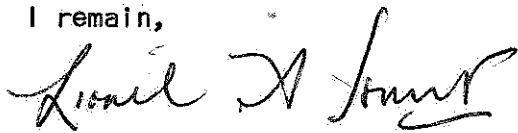
On behalf of the Mid-Year Class of '85 of the New York Law School, I would like to thank you for speaking to us this past Sunday.

The fellow graduates with whom I subsequently spoke expressed unanimous support for reformation of the judicial system in furtherance of efficiency and fairness. Your Honor's address was deeply inspirational.

The occasion was also quite a memorable experience for me since it afforded me the opportunity to share the dais with Your Honor.

Many thanks, Your Honor, for those kind parting words.

I remain,



Lionel A. Hurst
Mid-Year Class '85 Student Speaker

Kidnappers given life sentences

Continued from B-1

receive ransom money and receipt of ransom money.

Imposing the maximum terms recommended by the U.S. attorney, Miner set the life terms for each of the first two counts and terms ranging from 5 to 20 years for the other charges, all to be served concurrently.

"You are a man without decency or morality," Miner told Yong Bing-Gong. "The evidence indicates that you conceived the kidnapping plan and that you were the ringleader. The crime itself was conceived in your greed and it was executed with viciousness. The harm to the victim and her family is immeasurable."

"Although the victim has never been found," Miner said, "all indications point to the fact that you know where she is."

Yong Bing-Nam, convicted of kidnapping, conspiracy to kidnap, conspiracy to extort, conspiracy to receive ransom money and receipt of ransom money, also was sentenced to two terms of life in prison, plus three other concurrent terms of five, five and 10 years.

Quah Choon-Pheng, found guilty of kidnapping, conspiracy and conspiracy to receive ransom money, drew one life term and a concurrent five-year term.

Attorneys Donald T. Kinsella, representing Yong Bing-Gong; Joshua J. Effron, representing Quah Choon-Pheng; E. Stewart Jones Jr., representing Yong Bing-Nam; and Thomas J. Spargo, representing Yong Bing-Keong, urged leniency for their clients, but only Quah Choon-Pheng spoke out for himself.

"I never conspired in the matter and I did not commit any crime," he told the judge through an interpreter.

Miner said there had been "overwhelming evidence" that he had been a "willing and active participant." He said investigators "believe you are the one who actually performed the kidnapping, but there was no evidence to sustain that."

Jones told the court that if it had not been for Yong Bing-Nam's confession "the government could not have made its case." He also said his client had offered to plead guilty earlier in the trial.

Homer, however, said the confession was suppressed and "no evidence" in the trial was derived from it. He said Yong Bing-Nam had reneged on an agreement and refused to testify against his brother or divulge Eng's whereabouts. He said there was "nothing to merit leniency."

Miner agreed and said Yong Bing-Nam had sought to plead "on his own

terms." He said Nam and his "cohorts" were motivated by "greed and avarice" and took the life savings of William Eng which he paid in "vain hope that his wife would be returned to him."

Miner said Yong Bing-Nam, who had been an employee at the Tea Garden, "worked for the victim and her husband and you betrayed them."

Miner said he had "no hesitation" in handing out the life terms to the three defendants and would not recommend parole.

Homer later said the trio will be eligible for parole in 10 years, and Yong Bing-Keong will be eligible in 3½ years.

In addition to the six who were tried, two other men were indicted in the case. Chai Chee-Keong pleaded guilty to a comparatively minor charge and Mak Gin is still at large.

In Ulster County, state charges of kidnapping are pending against the four convicted in Federal Court. District Attorney Michael Kavanaugh said he had not determined whether to proceed with those cases and whether to seek murder indictments against Yong Bing-Gong and Yong Bing-Nam, whom he said he considers the "two major figures" in the conspiracy.

3 get life Kingston kidnapping

ALBANY, N.Y. (AP) — Three men were sentenced to life in federal prison and a fourth to a 10-year term for their involvement in the kidnapping of a Kingston restaurateur's wife, Assistant U.S. Attorney David R. Homer said today.

Charges against eight people, all related illegal aliens originally from Malaysia, arose from the abduction of Yim Ling Eng from her home in Hurley Oct. 2, 1983, said Homer. Mrs. Eng's husband, William, owns and operates the Tea Garden Restaurant in nearby Kingston, Homer said.

Eng paid \$180,000 in ransom to the defendants for his wife's release and about \$60,000 was recovered, Homer said. Mrs. Eng has not been seen or heard from since her abduction, he added.

Sentenced in U.S. District Court by Judge Roger J. Miner were Yong Bing Gong, 24, to life in prison for kidnapping, extortion, receipt of ransom money and conspiracy; Quah Choon Pheng, 28, to life for conspiracy to kidnap and to receive ransom money; Yong Bing Nam, 26, to life for kidnapping, receipt of ransom and conspiracy; Yong Bing Keong, 29, to 10 years for receipt of ransom money and conspiracy.

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OFFICE OF THE DEAN

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JAN 28 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

January 22, 1985


The Honorable Roger J. Miner
United States District Court
Northern District of New York
Albany, New York 12201

Dear Roger:

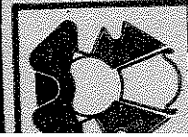
As I told you at the mid-year ceremony and again on the telephone last week, your speech was extraordinary; I continue to receive compliments on it daily. I think your address possessed just the right blend of realism and inspiration and clearly struck a responsive chord with our graduates. As you know, our graduates are very good; it is important they see and hear from a role model such as yourself before they leave the school.

I do hope you will stay in touch as I think very exciting things are going on in the School. Your continued support and interest are deeply appreciated.

With best regards to you and Jackie,


James F. Simon
Dean

JFS:ir



The

Knickerbocker News

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HEAD

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Albany, N.Y., Friday evening, January 25, 1985

3 illegal aliens get life in Kingston kidnapping

By JOHN RUNFOLA

Knickerbocker News Reporter

Three illegal aliens convicted of kidnapping an affluent Chinese restaurant owner's wife in Ulster County were sentenced in Albany today to life in federal prison by U.S. District Judge Roger J. Miner.

Malasian natives Yong Bing-Gong, 24, his brother Yong Bing-Nam, 26, and Quah Choon-Pheng, 28, each received the life terms without recommendation for parole today in connection with the Oct. 2, 1983, kidnapping of Yim Ling Eng from her home in the exclusive Kingston suburb of Hurley.

Mrs. Eng has not been heard from since her disappearance and is considered dead by the U.S. Attorney's Office. "The evidence shows you conceived of the kidnapping plan and were its

All the defendants were ordered to make \$150,000 restitution. Gong was ordered to pay an additional \$30,000.

At today's sentencing, Assistant U.S. Attorney David Homer asked Miner to give each defendant the maximum term allowed by federal law. None of the defendants faced the recently reinstituted federal death penalty for kidnapping because it was not in force at the time of the incident.

Homer said the convictions came after a 10-week trial, one of the longest in Albany. A defendant must serve a minimum of 10 years in federal prison on a life sentence before becoming eligible for parole.

In a presentence report filed with the court, the U.S. Attorney's Office said Gong and Bing were either members of Chinese youth gangs or

Downey awarded \$185,000

ALBANY KNICKERBOCKER NEWS - JANUARY 16, 1985
Jeffrey Downey's civil rights lawsuit against the state in U.S. District Court in Albany ended Tuesday when he accepted a \$185,000 settlement.

Downey sued after he insisted he was falsely arrested by state police for the sex murder of Stephanie Stambler March 13, 1980. The case has not been solved.

Downey, 25, a caterer at the Junior College of Albany, said he intended to remain in the area.

Defendants were state police Troop G Bureau of Criminal Investigation Capt. Gerald Looney, Senior Investigator Lawrence Kroneau, Investigators Douglas Wingate, John Brant, William Bragin and Ralph Marshall, retired Maj. Peter Liversanzi, former commander of Troop G, and retired Investigator John Phelan.

Assistant state Attorney General James King, said the defendants admitted no personal liability and felt "they've done nothing wrong, but ... recognize in hindsight that a mistake was made and that Jeffrey Downey, for whatever reason, confessed to a crime he did not commit."

"There is no disputing the fact Mr. Downey was in jail for a crime the evidence said he did not commit," said Nathan Riley, spokesman for the state Attorney General's Office.

"The person who has been helped the most is Mr. Downey, whose good name was restored. I don't think there is a cloud over the state police on this case," Riley said.

He said settlement discussions aided by U.S. District

Judge Roger Miner had occurred throughout the case.

He said the state usually tries to settle such cases without going to trial. The money comes from a special state fund for paying federal civil rights claims.

Riley said the settlement is good because no personal liability was placed on individual troopers.

The largest such payment was \$1 million to a state prison inmate who was imprisoned for 20 years, Riley said. A new law signed by Gov. Cuomo now permits prisoners to bring legal action against the state for imprisonment for crimes they did not commit, he said.

Attorney Arthur McGinn, who represented Downey, said the settlement adequately compensates his client.

McGinn said the settlement is one of the largest in the Capital District for a federal civil rights violation.

"For a federal civil rights case of this type the settlement is a lot of money," McGinn. For example, Rebecca Redcross of Cohoes received \$70,000 in a settlement with Troy police, Rensselaer County and Rensselaer County District Attorney Charles Wilcox, he said.

McGinn said the settlement does put a stigma on the state police. "The case clouds the state police. They went a step too far. The settlement was the best deal in the world. We weren't looking to crucify policemen. We were looking to compensate Downey," McGinn said.

Court bans leaflet distribution from Knolls Laboratory property

By Sal Paolantonio

Staff Writer

A U.S. District Court judge has banned anti-nuclear protestors from distributing leaflets on federal property at the Knolls Atomic Power Laboratory in Niskayuna.

The Knolls Action Project, a local disarmament group which brought suit on First Amendment grounds to hand out leaflets on the Knolls site, must do so on the south side of River Road across from the laboratory, Judge Roger Miner ruled.

The laboratory, which is operated by General Electric under a contract with the U.S. Department of Energy, is "a classified nuclear research facility" and therefore public access to it must be restricted, the judge ruled.

"If ever a government facility may be deemed appropriate for a total ban of free expression on the premises, it would appear that a classified facility, such as the Knolls Atomic Power Laboratory (KAPL), must be at the forefront of the list," Miner wrote in his 27-page decision.

"This court holds," the judge said, "that the presence of the leafletters, regardless of their specific group affiliation, on KAPL property is unavoidably incompatible with the character of the property."

Frank Zollo, a spokesman for the Knolls Action Project, said the judge's decision will not deter the disarmament group from distributing leaflets this morning — as they have done every Friday morning for six years.

He disagreed with the judge's contention that the action has disturbed the safe operation of the plant.

"Look, we did it for 13 months and the place continued to operate," he said. The disarmament group has scheduled a news conference this morning to discuss their objections to the judge's ruling.

Attorney Steven R. Shapiro of the New York Civil Liberties Union, which represented the anti-nuclear protestors, said an appeal is being contemplated.

GE spokesman Gerald Fabian said the company declined comment on the decision.

At the federal trial, GE presented five witnesses, all former or current employees at Knolls, who "testified that the bases for prohibiting further entry onto KAPL property were concern over safety, liability and labor relations," Miner said.

In June, 1982, Knolls employee Karen Rembert quit, saying her conscience had been rattled by the weekly vigils at the lab by the anti-nuclear group.

At the time, Rembert said she resigned without any intention of trying to set an example for the other 2,700 employees in Niskayuna.

But plant officials were apparently worried about the publicity surrounding her decision and within a month, GE stopped the peace group from handing out leaflets at the Knolls entrance, which is on government property.

The chief of Knolls security, Lance Stewart, had originally invited the protestors to hand out leaflets at the plant's entrance, saying it was safer than standing on the busy road, according to court papers.

Miner upholds leaflet ban at nuclear facility

ALBANY, N.Y. (AP) — Protesters have no right to hand out anti-nuclear leaflets at a Navy facility engaged in classified nuclear research, U.S. District Judge Roger Miner of Hudson has ruled.

His ruling Thursday rejected the claim by the New York Civil Liberties Union that the ban on the leafletting violated the protestors' rights of free speech guaranteed by the U.S. Constitution.

Miner ruled that the protestors could interfere with operations of the Knolls Atomic Power Labs in the Albany suburb of Niskayuna by handing out leaflets on federal property at the entrance to the facility's parking lot.

The judge said the protestors could express their views by handing out anti-nuclear leaflets on a road in front of the plant.

The protestors contended the road was an unsafe protest location and said they could not hand

out as many leaflets there as they could at the parking lot entrance.

The protestors — a group of about 30 people calling themselves the Knolls Action Project — have been handing out leaflets at or near the atomic testing complex for about 5 years for an hour every Friday morning, said Steven Shapiro, a lawyer for the New York Civil Liberties Union.

Shapiro said two protestors would offer leaflets to Knolls employees as they drove in or out of the plant from 7 to 8 a.m. during a shift change period while other protestors stood nearby in a silent vigil.

Shapiro said he doesn't know if the protestors will appeal Miner's ruling.

The government-owned nuclear facility is operated under contract by the General Electric Co.

For Judge Miner JEP

Woman will be allowed to pursue conspiracy case

TRIO TIMES RECORD - JANUARY 15, 1985

By DEAN BETZ
Staff Reporter

A Mechanicville woman has been granted a second try at appealing the U.S. District Court dismissal of a suit charging Mechanicville and Saratoga County officials conspired to prevent the proper prosecution of a sexual abuse case.

Albany attorney Alyssa Talanker, who represents Sharon Taylor of John Moore Homes, said Monday that lawyers for both sides are scheduled to meet in the Second Circuit U.S. Court of Appeals in New York City Jan. 30 for a pre-argument conference.

"We will probably discuss the issues in the appeal, then set a court schedule," she said.

Last week it appeared that the appeal was in jeopardy

because appeals papers arrived after a court deadline. Ms. Talanker said they were two days late because of the Christmas mail rush.

She consulted attorneys for the court after the deadline to request that the appeal be allowed to continue and Monday received mail notification of the court date.

Ms. Taylor claims the alleged conspiracy violated the civil rights of herself and a 12-year-old female relative, who was the victim of the alleged abuse. She is seeking \$5 million in damages.

Her attorney is appealing the October ruling in Albany of U.S. District Court Judge Roger J. Miner, who granted a pre-trial dismissal of the original suit. He said there was no evidence of the alleged conspiracy.

Court papers claim that Mechanicville City Court Judge

Vincent P. Pickett improperly handled the case of Robert O'Keefe of 207 Second Ave., Mechanicville, when he allowed the man to plead guilty in June to harassment, a violation. O'Keefe had been charged with two counts of second-degree sexual abuse, a misdemeanor, court papers say.

In addition to the city, the county, Judge Pickett and O'Keefe, defendants include Saratoga County District Attorney David Wait, Assistant District Attorney Robert Wilhelm, the district attorney's office, Mechanicville Police Department, Police Chief John J. Wallace and four named and two unnamed officers.

Also Monday, Ms. Talanker said Judge Miner has allowed Ms. Taylor to proceed with the case as a poor person. She said that will mean the appeals court will waive fees required when filing court papers.

A-8

TIMES UNION

Albany, N.Y., Wednesday, Jan. 16, 1985



DOWNEY IN 1981

... arrested in 1980

\$185,000 settles rights suit

Continued from A-1

him to sign a confession and a psychiatrist testified in the civil case that investigators had "brainwashed" Downey into admitting the crime.

The settlement deal was struck after the defendants began to present their side of the case. The agreement also settled a separate lawsuit that Downey had brought against the state in the Court of Claims.

Assistant Attorney General James King, one of the lawyers who represented the six active and two retired State Police officials who were sued by Downey, said he was pleased with the settlement, noting the police officers admitted no personal liability for any damages suffered by Downey.

\$185,000 settles rights suit

*False arrest cited
by Albany man*

By Joe Mahoney

Staff writer

Jeffrey Downey of Albany — who claimed State Police coerced him into confessing to the 1980 murder of Stephanie Stambler — ended his civil rights lawsuits against the state Tuesday when he accepted a \$185,000 settlement.

Downey, who maintained he was falsely arrested for the sex-related murder, walked out of U.S. District Court in Albany with not only the settlement money but something he said was more important to him: a cleared name.

"We proved here that I didn't do it (murder Stambler)," the 25-year-old Downey said moments after the settlement was reached by his attorneys and state attorney general's staffers. "Now I'm just happy it's over. It's been a long time."

Downey said he has no immediate plans for how he will spend the money, some of which will go to pay his attorneys, John Sweeney Jr. of Troy and Arthur McGinn of Albany. He said he expects to remain in the Capital District.

Downey, now employed as a caterer at the Junior College of Albany, signed a confession to the Stambler murder on March 14, 1980, the day after the killing, after he was in police custody for about 29 hours and had eaten only a hamburger. He claimed police coerced

See \$185,000 / A-8

Investigator: Downey couldn't remember whether or not he committed murder

ST. BAY TIMES RECORD
SAT. 15, 1985
By DONNA MOSKOWITZ
Staff Reporter

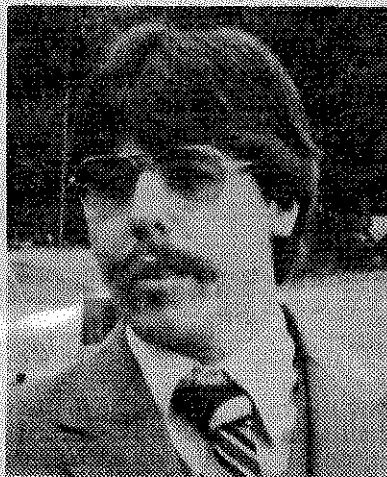
ALBANY — Before he signed a confession to the murder of Stephanie Stambler, Jeffrey Downey told State Police Investigator William Bragin he could not remember whether or not he had killed Miss Stambler, Bragin testified Monday.

Bragin also testified that Downey had signed a statement saying he was at home asleep when the 19-year old Troy woman was murdered.

Downey, 26, of Albany, is suing Bragin, five other members of the State Police, and two retirees in U.S. District Court for false arrest in connection with the 1980 murder of Miss Stambler.

Downey was indicted for the murder in April 1980, and spent nine months in the Rensselaer County Jail. Charges against him were dropped May 26, 1981, about three months after Christopher D. Zehner of Troy was arrested for the crime.

Bragin said he interviewed both Will and Jeffrey Downey when they were brought to the State Police barracks at Brunswick for questioning on March 13, 1980. The brothers were questioned in different rooms, but their stories were



JEFFREY DOWNEY

remain silent and his right to counsel.

Jeffrey Downey testified last week that he did not remember being advised of his rights until after he had signed a confession. He also said he was threatened, kept awake for 29 hours and given only one hamburger to eat during that time.

Bragin said Jeffrey Downey acknowledged his rights and said he understood them.

In the statement, which was read in court Monday, Jeffrey Downey said he and his brother Will had gone to a bar, had come home, and had seen his brother Ray with Miss Stambler at their home in

said, and the brothers went to bed.

Later, they heard banging on the door, Jeffrey Downey said. He opened the door and Miss Stambler was standing there. After an exchange of profanities, he slammed the door and went back to bed.

Ray went out to look for Miss Stambler, but Jeffrey Downey did not know whether his brother came back or if he had found her.

Bragin said that while he was interviewing Jeffrey Downey, he had the impression that Downey was holding something back.

"I asked him: 'Jeff, do you think the killer is in this building?' He said: 'I think so.'"

But Jeffrey Downey said neither Will nor Ray had killed Miss Stambler. So Bragin asked Jeffrey Downey if he had killed Miss Stambler.

"If it was me, I just don't remember," Bragin testified Downey said. But then Jeffrey Downey said "I must have. I just don't remember." Downey repeated this statement to Inv. Lawrence Kronau and Capt. Gerald Looney, Bragin said.

Bragin also said he remembered Jeffrey Downey taking his shirt off so that police could examine him for bruises. Downey had scratches on his hands that he told police were from a cat, Bragin said.

motion to excuse Peter Liverzani from the lawsuit.

Damages have not been specified in the civil rights lawsuit. The defendants are Bragin, Looney, Kronau, Wingate, Invs. John Brant and Ralph Marshall, and retirees Liverzani and John Phelan.

Bragin's testimony was expected to resume at 10 a.m. today.

Police recount Downey's arrest

Detective says taxi operator stalled investigation

By Joe Mahoney

Staff writer

State Police investigators probing the 1980 murder of Stephanie Stambler of Troy failed to quickly zero in on cab driver Christopher Zehner as a suspect because a taxi company operator refused to acknowledge him as an employee, a State Police detective testified Monday.

The testimony of Bureau of Criminal Investigation Lt. John Mainello came in U.S. District Court in Albany, where 25-year-old Jeffrey Downey of Albany is suing six State Police officials and two retired officers, claiming they violated his civil rights by coercing him to sign a false confession to the sex-related Stambler murder.

State Police charged Downey with murdering 19-year-old Stambler on March 14, 1980, after he first denied any role in the crime and then — following exhaustive questioning — signed a confession.

Zehner was charged with the same crime in February 1981, after he was arrested for rape, but in the second of two jury trials in Rensselaer County Court — the first ended in a hung jury — he was acquitted. Part of Zehner's defense at that trial was that Downey had confessed to the same murder. Zehner was later convicted of the

unrelated rape and was sentenced to a term in state prison.

Mainello, called to the stand as a defense witness, recalled that police found a Bragal's Taxi pen at the crime scene, along with a pair of glasses. He said that he questioned the owner of Bragal's — identified only as "Mr. Thomas" — and asked for a list of his employees, but was never provided with one. He also said that Thomas apparently hid the fact that Zehner was one of his drivers, because Zehner did not have a required taxi-driver permit.

Mainello said police also checked taxi-driver permits on file with Troy police, noting that investigators did not learn until Zehner's arrest for the rape that he never had the permit.

Mainello, who is not among the defendants in the trial before U.S. Judge Roger Miner, said that Zehner filed a report with Troy police claiming he had been robbed and assaulted by two men in North Troy early March 13, 1980 — the approximate time of the Stambler murder. But State Police investigators who had already zeroed in on Downey as a suspect did not learn of that report until Zehner was arrested for the 1981 rape because Troy police "just never made the connection."

Both Mainello and another defense witness, Investigator Robert Anslow, testified that detectives, in the early stages of the probe, focused on Downey and his two brothers, Willard and Raymond, because they gave inconsistent statements, the victim's car had been found outside their apartment and it was learned there had been a verbal "altercation" between Stambler and Jeffrey Downey when she sought a ride home about 3:30 a.m. the day of the killing.

The only defendant to take the stand thus far, Investigator William J. Bragin, recalled that Downey was given his constitutional warnings that he could consult with a lawyer before he gave an initial statement in which he denied any role in the murder.

Bragin also recalled that he felt Downey "knew something he wasn't saying," noting that Downey told him, "If it was me, I don't remember ... I just don't remember."

In addition to Bragin, named as defendants in Downey's lawsuit are: Capt. Gerald Looney, Senior Investigator Lawrence Kronau and Investigators Douglas Wingate, John Brant and Ralph Marshall. Also named as defendants are retired Maj. Peter Liversanzi and Investigator John Phelan.

'80 murder suspect cites police coercion

By Joe Mahoney
and Shirley Armstrong

Staff writers

Jeffrey T. Downey, the initial police suspect in the 1980 murder of Stephanie Stambler of Troy, testified in U.S. District Court Wednesday that State Police investigators coerced him into signing a fabricated confession to the brutal sex slaying, after being grilled for more than a day by detectives.

Downey, 26, is suing eight present and past State Police officials, claiming his civil rights were violated when he was wrongly arrested for the murder of the 19-year-old Stambler.

The second-degree murder charge against Downey was dismissed in May 1981 — more than three months after former cab driver Christopher D. Zehner of Troy was arrested and charged with the same murder. Zehner faced two trials on the charge in Rensselaer County Court, with the first trial ending in a hung jury and the second trial ending in an acquittal.

A major thrust of the Zehner defense was that Downey had signed a confession to the same crime.

Zehner was indicted for the Stambler murder after he was arrested for a February 1981 rape in Rensselaer County. He was convicted of the rape after he was acquitted of the Stambler murder, and is now serving a state prison term.

Downey was held in Rensselaer County Jail for nine months after he was charged with the Stambler murder on March 14, 1980. He was released when friends posted bail.

Downey, the lead-off witness in the civil rights trial that opened Wednesday morning in Albany before Federal Judge Roger Miner, claimed that, on March 13, 1980, two state troopers whisked him to the Brunswick State Police barracks, where he was interrogated for about 12 hours, before being taken to Troop G headquarters in Loudonville for more questioning.

He testified that Bureau of Criminal Investigation Capt. Gerald Looney told him at the Brunswick station, "We have a witness who seen your car at the scene of the crime and we have your snow tire prints."

"I don't have any snow tires," he said he told Looney.

Downey also claimed that investigators suggested that he "slept with my mother" and suggested that he wanted to "have sex with Stephanie (Stambler)."

Downey acknowledged that Stambler had dated his younger brother and had been to his Troy apartment with his brother the previous night before leaving in her car.

He also conceded that he smoked a

See **COERCION** / B-9

Coercion by police charged

Continued from B-1

marijuana cigarette and drank more than a sixpack of beer that night, but he said he repeatedly told his interrogators that he had no involvement in Stambler's death.

Downey recalled that he agreed to undergo a lie detector test at Loudonville when "they said if I passed the test, I could go home."

At Loudonville, he testified he underwent another lengthy interrogation by Investigator John Phelan, since retired, who Downey said administered the lie detector test and was told he "flunked."

He said that after Phelan threatened to physically harm him if he did not admit to beating and killing Stambler, "I started saying, 'yes, yes'" to Phelan's questions.

He said he was then sent into another room with other investigators who jotted notes as he responded to the questions. He said one of the investigators then typed a statement, but maintained he had no recollection of signing his name to the three pages of the statement.

In addition to Looney, named as defendants in Downey's lawsuit are: Senior Investigator Lawrence Kro-nau, Investigators Douglas Wingate, William Bragin, John Brant and Ralph Marshall. Also named as defendants are retired Maj. Peter Liversanzi and Phelan.

Attorney James King of the state attorney general's Office, representing the defendants, contends the police had probable cause to arrest Downey and acted in "good faith."

Downey, cross-examined by King, acknowledged that he was wearing glasses and hunting boots on the night Stambler was killed. A pair of black frame glasses was found at the crime scene, but Downey said under direct examination that he had not worn black glasses since he was a young boy.

Another witness for Downey, John W. Carroll, 25, of Troy, who helped to raise bail money for Downey, testified that he went to the Brunswick barracks in search of Downey the day he was brought in for questioning, but was told by troopers that he was "barking up the wrong tree."

Carroll said he next saw Downey when he was being arraigned on the murder charge in Brunswick Town Court. "He looked scared," he testified. "His eyes were just starry, like an animal that had been trapped."

NEW YORK LAW JOURNAL, January 11, 1985

**Judge Miner To Address
N.Y. Law Graduation**

U.S. District Judge Roger Miner, of the Northern District of New York, will address eighty-two graduates of the New York Law School's mid-year graduating Class of 1985 at 2 P.M. Sunday in the Froessel Library at the school, 57 Worth Street.

In addition to Judge Miner, a 1966 alumnus of the school, a student in the graduating class, Lionel Hurst, will speak.

Supreme Court Roundup

Affirmative Action Plan Of New York Stands

Special to The New York Times

WASHINGTON, Jan. 7 — Over three vigorous dissents, the Supreme Court today turned down a challenge to a decision by New York State to raise the scores of black and Hispanic prison officers who took a test for promotion to captain.

The officers passed the 1982 examination at half the rate of non-Hispanic white candidates, a disparity that led New York Civil Service officials to conclude that the test itself was discriminatory and the scores should be adjusted under a formula devised by statisticians.

No successful white candidates were removed from the promotion list. But eight additional minority-group officers were deemed to have passed, and a group of white officers filed suit. The United States Court of Appeals for the Second Circuit upheld most aspects of the state's action, and the white officers appealed to the Supreme Court.

As is typical when the Court decides not to take a case, the majority provided no explanation for denying review. The only written opinion was that of the three dissenters, Associate Justices William H. Rehnquist and Byron R. White and Chief Justice Warren E. Burger. Justice Rehnquist said in his opinion, which the two others signed, that the Court of Appeals had reached "questionable conclusions on difficult and important questions" that required Supreme Court review.

"States should not be allowed to practice racial discrimination anew under the guise of atoning for past discrimination," Justice Rehnquist said.

The votes of four Justices are needed for review.

The question in the case, *Bushey v. New York*, No. 84-336, is one that the Court left unanswered in its 1979 decision regarding a voluntary affirmative action plan undertaken by the Kaiser Steel Company and the United Steelworkers of America.

Because no governmental agency was directly involved in that case, *United Steelworkers v. Weber*, the Court was able to avoid addressing the implications of a state-imposed affirmative action plan. The Court last examined the affirmative action issue in June 1983 when, in a case involving the Memphis Fire Department, it ruled by a 6-to-3 vote that a court may not order an employer to protect the jobs of recently hired black employees at the expense of more senior whites.

Other actions today, as the Court returned from its Christmas recess, included these:

Cleared slaying suspect sues arresting officers

By JOHN RUNFOLA

Knickerbocker News Reporter

Jeffrey T. Downey, a former Troy resident whose murder indictment in the 1980 slaying of a Troy woman was dismissed, once again faced state police who participated in his arrest.

However, Downey appeared Wednesday in U.S. District Court in Albany not as a defendant in a criminal case, but as a plaintiff in a civil case.

Downey is suing eight current and former state police officers in connection with his arrest in the brutal beating death of Stephanie Stambler, 19, of Troy.

Downey, now 25, is seeking an unspecified amount of monetary damages from the troopers for alleged civil rights violations and other losses in connection with his arrest.

Testifying in his own behalf before U.S. District Judge Roger Miner and a six-person civil jury, Downey contended troopers denied him sleep during lengthy interrogation in connection with the March 1980 death of Miss Stambler.

The woman's killer has never been identified. Another suspect, Christopher D. Zehner, was acquitted of second-degree murder charges after an earlier trial resulted in a hung jury.

Downey testified in each criminal

trial concerning Ms. Stambler, who was visiting Raymond Downey, Jeffrey's brother, before her death.

Charges against Downey, who spent nine months in Rensselaer County jail before being released on bail, were dismissed in May 1981. The action came three months after Zehner was charged with the killing.

Appearing cool and calm, Downey testified Wednesday that arresting troopers failed to identify themselves. He also told Assistant State Attorney General James P. King he did not remember signing a statement in connection with the death.

Downey testified he did not remember giving state police permission to give him a lie detector test.

However, Downey said Investigator John Phelan, one of the defendants in the case, told him he had failed the test.

"He said, 'You failed it. You are lying to me,'" Downey testified.

Downey, who is represented by attorney Arthur F. McGinn, said he then began agreeing with anything the state police told him.

He said state police never beat, kicked or otherwise punished him.

John W. Carroll, who helped post bail for Downey after his arrest, testified the plaintiff lost weight and was apprehensive while he was jailed.

Defendants in the case include Phelan, Capt. Gerald Looney, Investigators John Brank, Ralph Marshall, William Bragin and Douglas Wingate, Senior Investigator Lawrence Kronau and retired Maj. Peter Liverzani.



Downey



2-4-85 RS

Elks initiate members

Hudson Elks Lodge observed past exalted ruler day Sunday. Past rulers initiated new members. U.S. District Court Judge Roger Miner gave the main speech. Front row, from the left, are Francis Earley, Winfield Sagen-dorph, Robert T. Brenzel, Angelo Melino, Judge Miner, Harold Porpa, John Qualtieri, Moses Sweetgall, David McCulloch and Wilson Shea. Second row, George Gardner, Bill O'Neil, Gerald Shook Jr., Gerald Wood, Perry Proper, Normand Tanner, Stephen Zola, William Craft, John Grandinetti, Marty Mahokin, Edwin Folz, Carm Pierro and Michael Colwell. New members in the back row are Frank Cotillo, Tim Shook, Dave Landry, Richard Concra, Paul March, Frank Winklarek, Lew Perkowsky, Raymond Simmons and Howard Pritzker. (llf)

(Register-Star photo by Mike Connors)

For Judge Miner

Robilotto seeks to keep Teamster trustee duties

FEBRUARY 1, 1985
Hearing scheduled March 8 in federal court

By JOHN RUNFOLA

Knickerbocker News Reporter

U.S. District Judge Roger J. Miner will be asked to decide March 8 whether former Albany Teamsters Union chief Nicholas M. Robilotto should be removed as trustee of two union pension and benefit funds.

In papers filed in Albany, Robilotto said his 1982 plea bargain with the U.S. attorney's office — which led to his guilty plea to federal tax evasion charges — did not include his forced resignation as trustee of the New York City-based Albany Area Trucking and Allied Industry Health and Welfare Fund and the Utica-based New York State Teamsters Council Health and Hospital Fund.

The funds control millions of dollars in investments. Authorities estimate Robilotto collects about \$10,000 a year in expenses from the trusteeships.

Miner was originally scheduled to hear the government's motion today, but the matter was delayed until

March at the request of Barry Ivan Slotnick, who represents Robilotto.

Assistant U.S. Attorney David S. Homer is asking Miner to throw out the complaint. In papers filed in Albany, Homer said "there is no genuine issue to be tried."

He said there were no deals or understandings made other than what was contained in the plea agreement Robilotto signed.

Robilotto is asking Miner for a permanent injunction to bar federal prosecutors from taking action against other trustees who were warned by the Organized Crime and Racketeering Section of the U.S. Justice Department that they would face misdemeanor charges if he continued as trustee.

Union president for more than two decades, Robilotto, 73, of Amsterdam, was sentenced to an 18-month suspended prison term, fined \$15,000 and given four years probation after he pleaded guilty to failing to report \$24,502 in income to the Internal Revenue Serv-

ice from 1975 to 1977. Forty-two other counts of misusing union funds were dismissed as part of the plea-bargain agreement.

Some of the dismissed charges accused Robilotto of receiving \$4,800 in duplicate expense reimbursements for attending trustee meetings.

As part of the plea bargain, Robilotto agreed to give up any union office after Jan. 11, 1983. Federal law prohibits a labor official from any union activity for five years after a felony conviction.

However, Slotnick contends the prohibition cannot be extended to the trusteeships.

He objects to a determination by David Margolies, chief of the Organized Crime and Racketeering Section of the Department of Justice, which "took action in direct contravention of the terms of the plea agreement between the plaintiff and defendant in violation of his Fifth Amendment right to due process of law."

After 10 years, IUD device is still generating lawsuits

For Judge Miner
JEP
KN
JANUARY 7, 1985
By MAUREEN MCTAGUE DANA
Knickerbocker News Medical Writer

More than a decade after it began, at least a dozen area women — including one from Schenectady — are part of the continuing story of the Dalkon Shield intrauterine device.

The Schenectady woman became part of the story in 1977, when she first developed pelvic inflammatory disease (PID) and spent a week in the hospital before the problem was diagnosed.

It was the beginning of what became a chronic problem for her, with continual discomfort and another acute attack in 1979.

It was not until she saw a segment of "60 Minutes" in 1981 that linked use of the Dalkon Shield to multiple cases of PID, infertility, hysterectomies and death that she "put two and two together."

Last month was a notable one in the seven-year saga of pain and legal battles for the Schenectady woman, who is now in her late 30s.

Within weeks, she won an out-of-court settlement of "under \$100,000" from A.H. Robins, manufacturer of the Dalkon Shield, in a case filed in Maryland and had a hysterectomy she said she believed had been complicated by the problems related to her use of the IUD.

The story of the Dalkon Shield, an IUD marketed by Robins in the early '70s, is old and new. It is old because litigation has been ongoing for 10 years, since Robins withdrew the IUD from the market in 1974, after a growing number of complaints.

It is new because, a decade after the complaints surfaced, new suits continue to be filed at the rate of 30 a week.

The problems with the Dalkon Shield are believed to stem from its attached string, or "tail," which helped users check that it was in place and facilitated removal. While all IUDs have tails, other models have only one strand, while the Dalkon Shield tail was made of many strands, which is believed to have drawn bacteria from the vagina to the uterus.

In one of the most important developments in the case to date, Robins invested \$4 million in October and November in a national advertising campaign that urged women still wearing the IUD to have it removed at the company's expense.

The ads appeared on television and in magazines and newspapers in a media blitz Robins spokesman Roscoe E. Puckett Jr. said was expected to reach 90% of the country's population.

The ad urged women still wearing the device to have it removed "since there is substantial medical opinion that its continued use may pose a serious personal health hazard."

It also noted, "Many claims have been made that the device causes health problems, including pelvic infections, that may result in serious injury or death."

A hot-line number Robins included in the ad has generated 17,000 calls, Puckett said, but so far it has received only about 2,500 bills from physicians for removing the Dalkon Shield.

Locally, obstetrician-gynecologists say they have removed shields from only a few patients who made appointments after seeing the ads.

Considering it has been 10 years since publicity about the shield first surfaced, some of the doctors expressed surprise that any patients would still be wearing it.

While Puckett said Robins officials had decided to launch the ad campaign to make "an extra step" to inform patients of the risk, critics of the company complain it is an attempt to end the expensive litigation that as of Sept. 30 had cost the company \$259 million, with another 3,600 cases pending.

Puckett said in the aftermath of the ad campaign it would be "awfully hard for a woman to say at this point or down the road that she wasn't aware" of the hazards of the Dalkon Shield.

The fact thousands of the IUDs are being removed as a result of the ad campaign does not mean women will not continue to file suits for injuries that occurred years ago.

In Albany, a ruling last month by federal Judge Roger J. Miner permits three women represented by Albany attorney Peter Danziger to continue their Dalkon Shield lawsuits, despite the fact the injuries occurred as long ago as 1972.

"It's a very unusual situation that the federal court judge has allowed," said Danziger, adding Miner's denial of the

Physicians defend use of IUD device

Adverse publicity about the Dalkon Shield over the last decade may have resulted in an unwarranted fear of other IUDs, which can be a good contraceptive alternative for older women who have already had children, some area physicians say.

"Adverse publicity about any contraceptive method is reflected in user negativity," said Dr. Donald Swartz, chief of general gynecology and professor in the department of obstetrics and gynecology at Albany Medical College.

Swartz said patient interest in oral contraceptives declined for a while in the years its safety was questioned, then increased with evidence newly developed types of pills caused fewer side effects.

Area physicians estimated from 2% to 10% of their patients using contraception chose the IUD.

Dr. Anthony Levatino, an obstetrician-gynecologist in Troy, said, "In my opinion the IUD is a much maligned method of contraception."

Like the other obstetrician-gynecologists contacted, he discourages its use in women who have not had children because of the slight risk of pelvic inflammatory disease, which could lead to infertility.

He said he viewed it as a good alternative for older women with children.

"It's inexpensive, it's convenient, it's very effective and it's non-hormonal," Levatino said.

Swartz and Dr. Richard Etkin of Schenectady agreed the IUD was an inappropriate contraceptive for women who had not had children.

"There's a general consensus among physicians in the United States today that someone who has never been pregnant should not have an IUD as a first choice of contraception," said Etkin.

At particularly high risk of infection with IUDs, Swartz said, are young women with multiple sex partners, and he said he would refuse to fit such patients with IUDs unless they could not use other contraceptive methods.

Not all physicians agree IUDs are an appropriate contraceptive for older women with children.

Dr. Lewis Marola of Schenectady, noting only about 2% of his patients used IUDs, said he discouraged their use because of concerns they might cause problems similar to those caused by the Dalkon Shield.

"People shouldn't be lulled into a sense of false security involving the other IUDs," he said, noting there was a risk of infection with all of them.

Swartz said he would tell a woman in her 30s who had had children and had only one sexual partner that an IUD was "an excellent method of contraception" and that "her risk of infection is only slightly higher" than for a woman who did not wear an IUD.

— MAUREEN MCTAGUE DANA

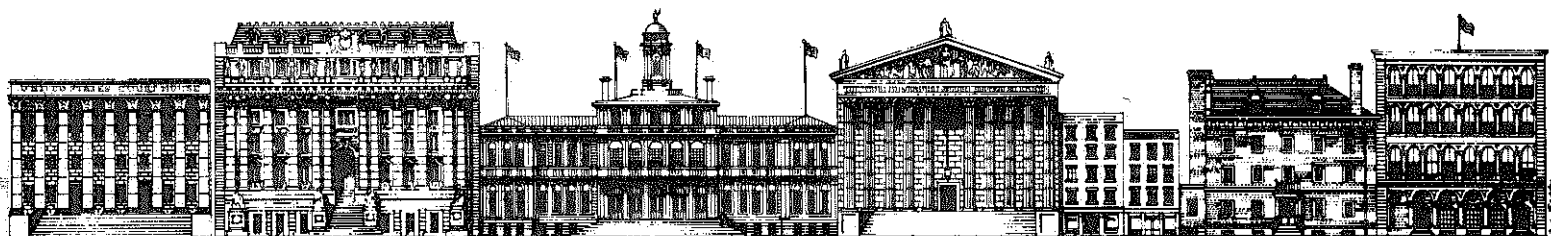
motions filed by Robins meant in effect the usual three-year statute of limitations did not apply because of the company's efforts to conceal the hazards of the IUD from the public.

No one knows for sure how many other New York women have dropped plans to sue because they were previously told the statute of limitations in New York had expired.

The Schenectady woman, who was almost one of them, suspects there were many. When she first attempted to file suit in 1981, a Schenectady attorney advised her the statute of limitations had run out in New York, but put her in touch with a Vermont attorney who helped her sue in Maryland, where her IUD had been inserted. Had it not been for his sound advice, she said, she probably would have dropped her plans to sue.

Many states, such as Maryland, have more liberal statutes of limitations.

Danziger, who is representing 11 women with suits against Robins and has one client who has already won a "very substantial" out-of-court settlement, said, "I think it's important for women to know they can still try their cases."



New York Law School In Brief

Harlan Fellows Get White House Scoop

Members of the NYLS John Marshall Harlan Fellowship, a group of prestigious supporters of the Law School, were privy, at the invitation of the Dean, to an insider's briefing on the White House presented by Presidential Special Assistant, Professor Marshall Breger. As the President's liaison to the Jewish community and to academe, Professor Breger (on leave from New York Law School) spoke informally and off the record about the powers that be in Washington and discussed the strategy behind the Administration's Middle East policy.

The occasion for the briefing was an elegant dinner reception at the Law School, hosted by Dean Simon on May 21 in recognition of the New York Law School Harlan Fellows, whose level of commitment to the Law School and whose professional

successes translate into a showcase of New York Law School alumni. Commenting on the evening, Dean Simon said he was glad to be able to reciprocate some of the goodwill demonstrated by the Fellows, and to be given "the opportunity to bring them closer to the Law School."

The "Insiders Briefing" by Professor Breger focused on the nuts and bolts of White House policy, leaving the theoretical for other forums. Professor Breger's remarks were, on the one hand, political and representative of the Administration's line on issues, while on the other hand, spiced with personal insights and intellectual analysis.

(continued on page 4)



Dean James Simon is committed to the emergence of NYLS as a service-oriented legal education center. See Story on Page 2.

Commencement '84

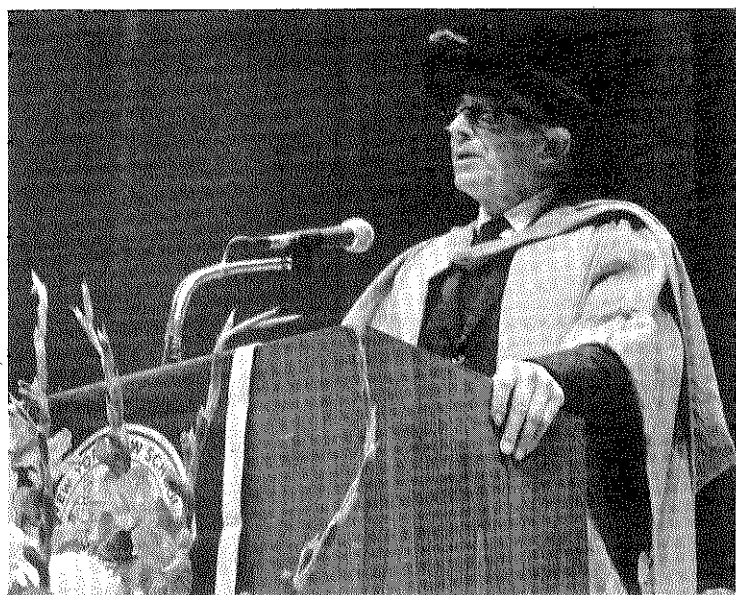
Extra tickets for the 1984 New York Law School Commencement were a coveted lot. On June tenth, 500 graduates and their guests filled Lincoln Center's Avery Fisher Hall to capacity.

Embodying many of the aspects of good theatre, the 92nd Commencement was favored with an audience of fans, an outstanding cast of students and leading characters who play major roles in the national arena, including Geraldine Ferraro and Eugene Rostow. The denouement was provided by the introduction of the new Dean of the Law School, James F. Simon.

Upon announcing the unanimous approval of this appointment by the Board of Trustees, Chairman John V. Thornton praised the remarkable progress that has taken place at the Law School during James Simon's tenure as Acting Dean. Unlike others who understudy, however, James Simon had not sought out the Deanship, but rather the Board turned to him after a nationwide search for decanal candidates.

Professor Eugene Rostow prefaced his intriguing Commencement Remarks by congratulating the Law School community on the selection; "I am confident," he proclaimed, "that James Simon will lead the School to become an outstanding influence for progress through law, not only in New York, but throughout the nation and beyond."

Professor Rostow was one of four notable recipients of the degree of doctor of laws *honoris causa* at the 92nd Commencement; one of four individuals whose commitment to the public weal and whose contributions to the legal profession exemplify the highest objectives of legal education: (continued on page 8)

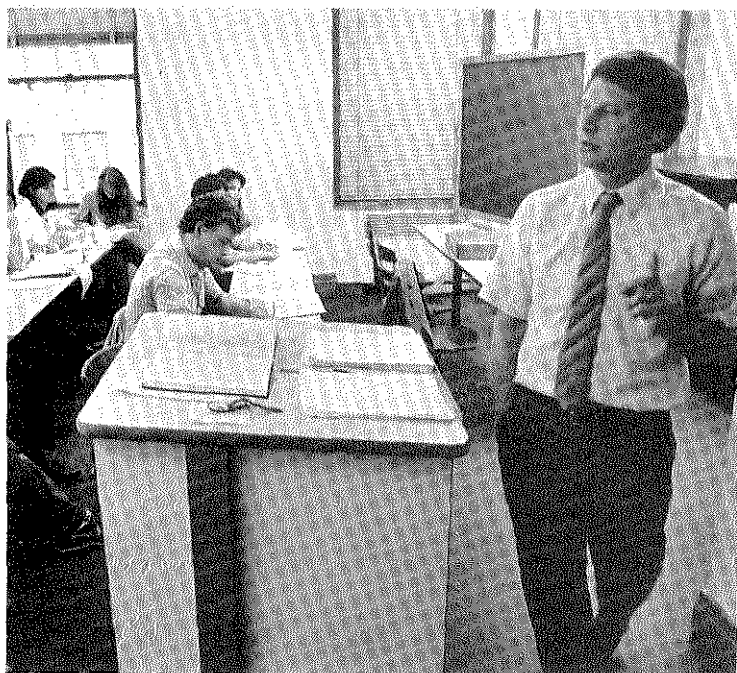


Professor Rostow tells tales of Don Quixote

In Brief

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- 6 Stern on Trial
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- 12 Don Quixote or Sancho Panza?

Dean Simon on the Deanship: A Writ to Write



The office of the Dean of New York Law School is panelled in dark wood. Windows are shuttered and the cacophony of Church Street traffic is muffled, just as the light from the street comes only dimly into the room. The sense of the place is backward-looking to the earlier days of less accessible Deans and narrower views of legal education.

But the occupant of the room belies one's perception of the place.

Even sitting at the desk which takes up the center of the floor, but is significantly placed at an angle, he is constantly in motion. He rocks in the chair. His arms move to move papers, to punch telephone buttons, to push his sandy hair off his forehead, to emphasize a point. He thrusts himself to the door of his assistant to ask a question (the phone takes too much time), to the office door to usher a visitor in or out. His face is animated, his manner engaging, his style open, direct. He is reflective and his scholarship illustrates the connection between thought and action, a conflict embodied in fact in the demands now being made on his time, in which he must chart the course of this century-old School and still complete a contracted book dealing with the Supreme Court, and specifically the relationship between Justices Black and Frankfurter.

James F. Simon is the thirteenth Dean of New York Law School. Selected from the Faculty after an extensive national search Dean Simon displays an impressive range of interests and abilities manifested in a career begun in journalism with *Time*, and continued at Yale Law School as a constitutional scholar and through two award-winning volumes, *In His Own Image*, an analysis of the Nixon court, and *Independent Journey*, a critically acclaimed biography of Justice William O. Douglas.

IN BRIEF interviewed Dean Simon recently at the School. Excerpts from that discussion follow.

IN BRIEF: Dean Simon, what attracted you to accept the deanship of NYLS?

Dean Simon: What is most exciting is the idea of taking an educational institution with the great resources and potential of NYLS and trying to develop them in a way that will make it unique among the nation's law schools. You can compare the process to that of creating a book: you start out with the raw resources and the potential for a major contribution to (legal) literature; you work with it and piece it together; and when you're finished, you may have something much greater than the individual parts. I see being the dean of NYLS as a comparable creative venture.

To continue the analogy with NYLS: You can take the raw resources here—dedicated trustees, alumni, administrators and staff, talented and ambitious faculty, and intelligent and highly motivated students—and ask them to cooperate to create a uniquely excellent product.

You can feel the excitement here, and much of my energy will be devoted to making certain that excitement continues.

IN BRIEF: In view of the escalating debate between the advocates of clinical education and the theoretical proponents, what is your position on the role of today's law school?

Dean Simon: While it is necessary to know what the law is at any given time, it is even more important to know what the law should be. Thus my approach is eclectic in that it encourages curriculum innovation and faculty scholarship that harmonize the practical and the philosophical.

We should never lose sight of our mission to train practicing lawyers, but we have important work beyond that narrow goal. I see a student body that does not simply pass through law school with only one thing in mind—to get the degree and go out and open a law office—but rather, one that demands a stimulating education experience by which, they not only learn the skills of lawyering, but also at the same time, learn a great deal about the responsibilities of the profession in the community at large.

The students should be able to sample a variety of experiences that will teach them about functioning effectively as professionals in a progressive society. In their roles as student organization leaders, moot court advocates, writers on student publications, they should be testing themselves in terms of what they can offer to the community and their profession upon graduation.

Students must also think about the underlying public policy; the historical and contemporary reasons of why the law is the way it is.

I would hope that in addition to the practice of law, the experience at NYLS will enable our graduates to take leadership roles in a variety of contexts in their community (school boards, zoning boards, town councils). With their analytical skills and professional training, they will be able to bring insights and solutions to some problems that go far beyond the problems of individual clients they might see on a day-to-day basis.

IN BRIEF: In what immediate way will the curriculum reflect your educational objectives?

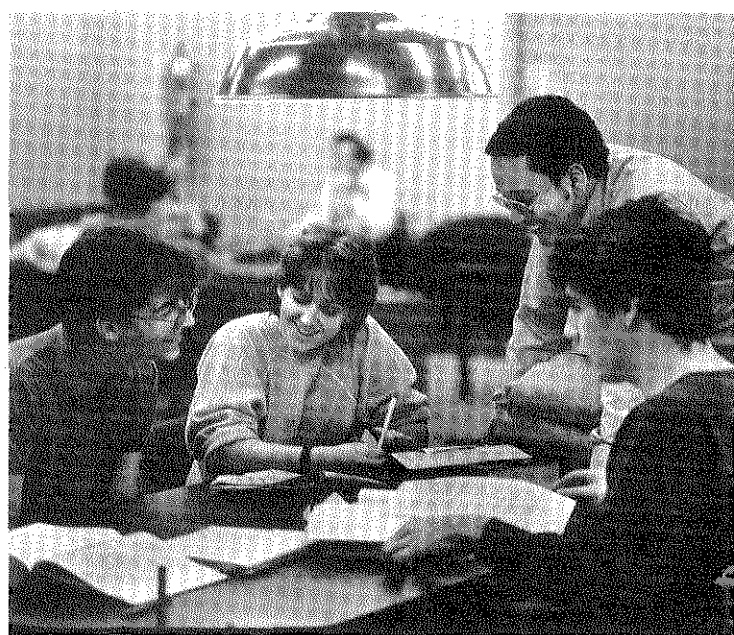
Dean Simon: I insist upon an open-minded agenda for the precise ingredients of legal education at NYLS. To some extent this School is a laboratory to explore the models that are going to be essential to legal education in the future. I don't think there is a single model for legal education; what we ought to be committed to is excellence in every educational context. I expect the School to offer an innovative clinical program, challenging courses in jurisprudence and a number of special programs which distinguish the Law School.

IN BRIEF: How do your prescriptions for legal education translate into concrete plans for NYLS?

Dean Simon: I'm glad you asked that.

I propose a model of the very excellent undergraduate liberal arts institution—except, at the graduate level. As such, I am committed to leading the Law School to emerge as a service-oriented legal education center; a cohesive unit that serves the students and the faculty in a variety of ways, as well as making a unique contribution to the legal community.

(continued on next page)



I see a faculty serving not only our students and the scholarly community, but taking on leadership roles at the bar and in the society at large. To do this there has to be a sense of institutional mission, a sense of program and cohesiveness.

We now have on board an extraordinarily talented faculty that is skillful in the classroom, increasingly productive as scholars, and accessible to the Law School community in general.

Another facet of the successful self-contained liberal arts college is their concentration on two or three areas in which they distinguish themselves.

There are several areas where New York Law School has been recognized and has demonstrated significant strength: international law, communications law, and a rich variety of clinics. We are particularly enthusiastic about the introduction this semester of our Federal Litigation Clinic.

IN BRIEF: In working towards the actualization of your blueprint for a service-oriented legal education center, what are the short-term goals of your deanship?

Dean Simon: I am excited about the Law School's future—but also realistic. You can't do everything at once. You can plan a great model on paper, but once you get people involved—with limitations of a human and financial nature—you can't do everything you want or move forward at the pace, ideally, that you would like to. It's clear that we have to think about our future needs in terms of facilities.

- Our library space, for example, is grossly inadequate—mainly because we have built up both the collection and the services for the library significantly in the last few years. We've outgrown the space that we've allotted to it. Being an ambitious faculty and school, there is a great desire to expand services to students and faculty and we simply can't do it with the existing plant.

- I think we have to improve student services. If we are to be the service-oriented legal institution that I envision, that means there ought to be very good research facilities in addition to other facilities that make academic life here interesting, challenging and gratifying.

- In order to move the school forward, our faculty must continue to distinguish itself, not just here in this building, but nationally; I think we do that by offering a variety of opportunities for the faculty—research grants, travel to professional meetings, seminars—the kinds of things that are going to stimulate a productive faculty.

- One of the goals as I see it, is to define very specifically, what our academic needs are going to be over the next two decades and to plan for our facilities accordingly. In thinking about our academic goals, we have to think about our curriculum and special programs. All of these have to be sorted out very carefully over the next year.



IN BRIEF: Prior to your appointment as dean, you earned laurels as a constitutional law scholar, journalist, award-winning author and teacher. Can you continue to meet your own professional aspirations and respond to the incessant demands of the deanship?

Dean Simon: Although I remain interested in the creation of the 26, no make that 36-hour day, I do see my writing coalescing with my vision for the Law School.

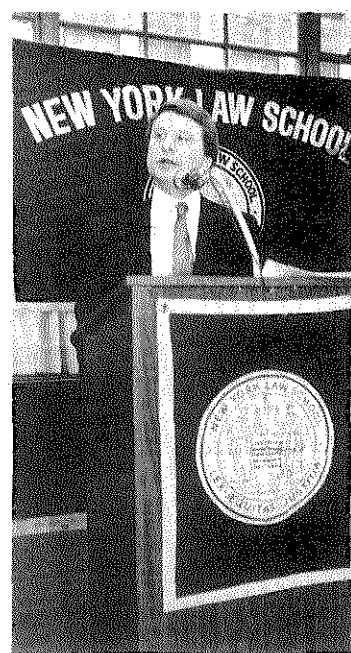
The faculty and trustees know that I feel that if I become confined to educational administration alone, I may lose a certain intellectual vitality, which I think is important to me and to the School. I'm not simply an administrator, although that is crucial, but I'm a scholar as well.

I am currently working on a study of the personal and professional relationship between U.S. Supreme Court Justices Hugo Black and Felix Frankfurter. While the book has not progressed as far as I anticipated since taking on the deanship, I am committed to its completion.

In my view, this is very much in the best interests of the Law School. My editor at Simon and Schuster views it as an important book, and I maintain that my attempting to write such a book while serving as dean, suggests the very serious purpose that we at New York Law School have in terms of scholarship and publications. Even the dean can try to squeeze out the time to work on a major book.

We are bringing a message to the legal community: here at New York Law School there is intellectual ferment.

We are all working full-time to create an exciting, innovative and productive environment in which we can all thrive and bring what we learn here to the community at large.



Insider's View at Harlan Dinner

As Special Assistant to the President, Marshall Breger said he sometimes found himself at the White House discussing policy questions just before sundown on Fridays. Being an Orthodox Jew, he has left his wallet and briefcase at the White House before walking home to observe the sabbath. The 37-year-old Breger, former visiting fellow in legal policy at the Heritage Foundation and associate professor of Law at New York Law School, pointed out that while often dealing with the frustrating minutia of thrashing out a sticky policy issue, he is always aware that he is doing so "in the cockpit of the nation."

Of course, the work of a liaison to the President became all the more critical during an election year. Professor Breger asserts that it was his sense that in the Presidential election there would be a clear shift in the Jewish vote. "Although historically, since the Enlightenment," said Breger, "Jews have been liberal, both politically and culturally, the Jewish community is politically veering toward conservatism."

Since joining the Administration in January of 1984, Professor Breger has focused on Middle East policy, negotiating to establish free-trade with Israel, elevate the military relationship between the United States and Israel to one of strategic cooperation, and effect a consistency in approach toward Israel which ultimately will not be subject to the vicissitudes of "balancing the scales" between the two countries.

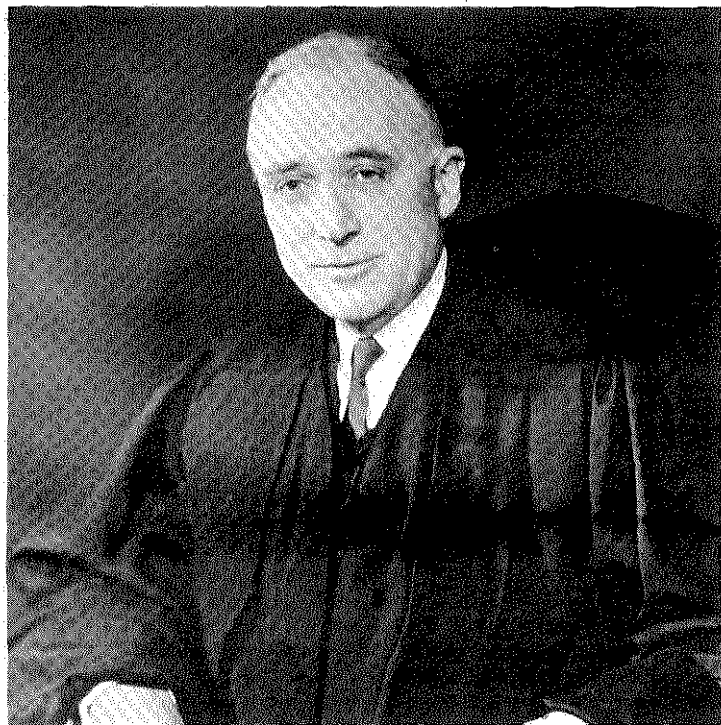
When questioned about some ambiguous elements of the Administration's Middle East decisions, Professor Breger replied: "You can look at a glass as being ninety percent full or ten percent empty; relations (with Israel) are stronger than they ever have been."

At the conclusion of the evening, Dean Simon likened Professor Breger's insider view of the White House to a seminar on the legislative process. The Dean noted that one can read about United States-Israel relations every day in the *Times*, "but to find out from someone in the White House how the President is thinking and acting on an issue is quite extraordinary."

Dean Simon's reaction was echoed by the Harlan Fellows in attendance who found Marshall Breger to be both intellectually provocative and personable. Commenting on the success of the Harlan Dinner, committee chairman Richard Flynn said the occasion was truly an outstanding evening of fine food, interesting talk and fellowship with the Dean and other committed New York Law School graduates.

Another Harlan Dinner is to be held May 16, at which time Gerald Crotty '76, general counsel to Governor Cuomo, has agreed to give the Harlan Fellows an insider's view of Albany. These briefings are, according to Dean Simon, "something you can't get from reading the newspapers, but you can from being a Harlan Fellow."

The John Marshall Harlan Fellowship



The John Marshall Harlan Fellowship is an association of selected alumni and friends of the Law School joined together by an active and abiding interest in New York Law School. The Fellowship was established to recognize individuals whose substantial contributions of at least \$1,000 to the Heritage Fund help to alleviate the Law School's most pressing needs among which are strong faculty development and financial aid for deserving students.

Richard Flynn '57 (partner of the firm of Pryor, Cashman, Sherman & Flynn) who is chairman of the Fellowship Committee considers the Harlan Fellowship "to be both a primary resource for the School as well as a social and professional nexus for outstanding New York Law School alumni." As chairman, Mr. Flynn seeks to identify prospective Fellows.

The Harlan Fellowship honors the memory of one of New York Law School's most distinguished graduates John Marshall Harlan of the Class of 1924. A noted Justice of the Supreme Court, Justice Harlan was the grandson of United States Supreme Court Justice Harlan, and a graduate of Princeton and Oxford.

**Upcoming
Harlan Dinner
Will be held on May 16
Guest Speaker:
Gerald Crotty '76,
General Counsel
to Governor Cuomo**

Class Action

1927

Irvin Husin has been elected a vice president of the NYLS Alumni Association.

1949

Stanley Doyle, Jr. has been elected vice president of the NYLS Alumni Association.

1950

Hon. Harold Lieberman was the keynote speaker at Memorial Day Services held at Cedar Park Cemetery, in Hudson City, N.Y.

1951

Bernard Eiber has been appointed chairperson of the Committee on Legal Education, of the Queens County Bar Association.

1953

Joseph Irom, of Irom & Wittels, was a panelist at the September 20, New York County Lawyers' Association Forum Panel, "More About Million Dollar Verdicts."

1955

Hon. Ivan Warner, NYLS Alumni Association Board Member, has been elected President of the Supreme Court Justices' Association of the City of New York.

1956

Harry Mulhall has retired as Special Agent with the FBI. Classmate Hon. Roger Miner characterized Mr. Mulhall's "entire twenty-seven years of service as having been distinguished by extraordinary success and outstanding accomplishments."

1957

Richard Flynn has been elected president of the NYLS Alumni Association.

Hon. Melvyn Tanenbaum, Justice of the New York State Supreme Court, was elected Chairman of the American Bar Association National Conference of Special Court Judges. The Conference has 1035 members, and is part of the ABA Judicial Administration Division.

1958

Bernard Mendik, one of New York's most active real estate investors and managers, has purchased 100 Church Street in a joint venture with the Equitable Life Assurance Society of the United States and the investment banking firm of Allen & Company. The price was \$116.5 million.

Hon. Jules E. (Jed) Orenstein of Great Neck, was re-elected to a second term on the Nassau County District Court.

Hon. Ernst Rosenberger has been elected a vice president of the NYLS Alumni Association.

1959

Mary Cerbone has been re-elected secretary of the NYLS Alumni Association.

Charlie Goldenberg, president of Sylvan Lawrence Company, was profiled in *N.Y. City Business* on October 8. So far this year, Mr. Goldenberg has brokered some \$750 million in leases, representing 950,000 square feet of office rentals.

T. Lawrence Tabak has been re-elected vice president of the NYLS Alumni Association.

1960

J. Bruce Llewellyn, president of Fedco, Inc., was a panelist representing the business community at a NYCLA Forum, the topic of which was "State of the City."

Anthony Papa has been appointed Deputy Secretary of State. In her announcement of the appointment, Secretary of State Gail Shaffer said that Mr. Papa, "in serving as chief executive officer of the State Liquor Authority, brings to the Department of State, a background of administrative experience in state government. I am confident that his expertise will be of tremendous assistance in handling the various functions and jurisdictions of the Department of State in the New York City area."

Leon Tarr of Golden, Colorado has completed coursework at the Colorado School of Mines for a degree in mineral economics and a minor in petroleum geology.

1961

Milton Berner has become a member of the firm of Golenbock and Barell of New York City. Mr. Berner will be with the White Plains Office.

1962

John Corbley has left his position as member of the Governor's (Maryland) Cabinet and Secretary of Licensing and Regulation to become President of the Automobile Insurance Plans Service Office which is located in Providence, Rhode Island. AIPSO is a national insurance service organization, whose primary responsibility is as a ratemaker in 47 of the 53 jurisdictions in this county.

Sanford Weinberg's ninth article for *Discovery* was published in the July 27 edition. Entitled "A Forty Year Old Reminder," Mr. Weinberg's piece recounted attempts by a small group of high-ranking German officers (notably Count Klaus von Stauffenberg) to assassinate Adolf Hitler.

1963

Congressman Mario Biaggi has endowed a lectureship at New York Law School. The Mario Biaggi Lectureship was established in honor of Dean Emeritus Daniel Gutman, who encouraged the Congressman to attend the Law School while he worked as a police officer. The lecturer each year will be from the

(1963 continued)

Richard LaPera was elected to the Nassau County District Court.

1964

Councilman Abe Gerges spoke for the Mondale-Ferraro ticket against a Reagan-Bush Advocate at the Packer Collegiate Institute's Forum on Contemporary Issues held on October 3.

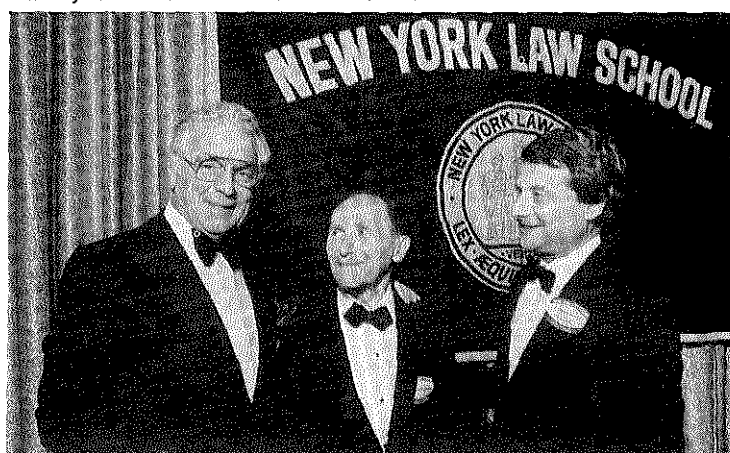
Richard Lee Price, Acting Justice, Supreme Court, Bronx County has been appointed Chair of the New York County Lawyers' Association's Special Committee on Law Related Education. Judge Price was a presenter at the New York State Bar Association's Law, Youth and Citizenship Conference at the Concord. His presentation of materials for elementary school children was a great success.

1965

Thomas D. Carver has been named President of the Atlantic City Casino Hotel Association.

Joseph Richard Guardino's article "Top Heavy Pension and Profit Sharing Plans Post TEFRA" was published in the August issue of the *National Public Accountant*.

(continued on page 7)



Congressman Mario Biaggi and Dean Simon flank Dean Emeritus Daniel Gutman.

New York Law School

Presents

FOCUS ON TRIAL ADVOCACY TECHNIQUES

A four-part seminar series given by
the nationally acclaimed

JUDGE HERBERT J. STERN

Wednesday, February 13, 1985

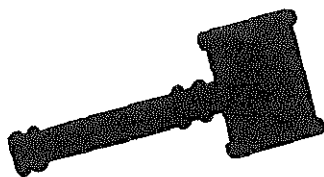
Wednesday, February 20, 1985

Thursday, February 21, 1985

Tuesday, February 26, 1985

5 p.m. to 10 p.m.

The course is designed to sharpen and enhance
trial advocacy skills at all levels—*concisely,
completely, immediately.*



Participants can register for the complete series (\$225) or for individual sessions (\$65 per session). Special fees available to law students. For further information, contact the **Office of Public Affairs, New York Law School (212) 431-2800.**

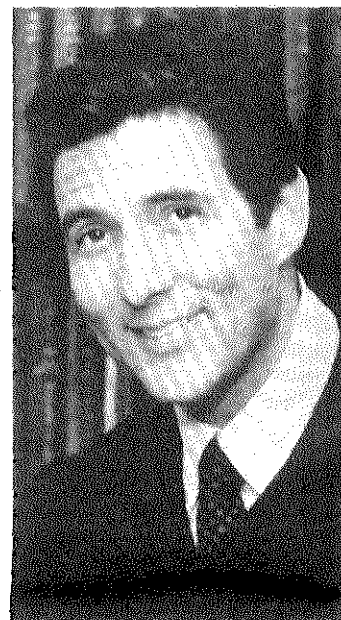
About Judge Herbert J. Stern

Hon. Herbert J. Stern, United States District Judge for New Jersey, has built a national reputation as both a skilled trial lawyer and an expert teacher of trial techniques.

His reputation as an advocate was established when he tried significant cases against such notable attorneys as Edward Bennett Williams and Simon H. Rifkind. Formerly, he served as the United States Attorney for the U.S. Department of Justice and the New York County District Attorney's office.

A *New York Times* book review of Herbert Stern's *Judgement in Berlin* (Universe Books, 1984), a personal account of his experience with trying the case of three East Berliners accused of hijacking a Polish airliner to West Berlin, found the book to "present a revealing self-portrait of an intrepid Judge (Stern) facing extraordinary challenges."

Judge Stern has taught advocacy courses at Harvard, Yale, and Columbia Law Schools and for state bar associations in New York, New Jersey, Virginia, Wisconsin, Colorado, and California. He also serves as co-director of the University of Virginia Law School Trial Advocacy Institute.



"It is rare to have someone teach advocacy who has been a great advocate and currently is a great judge. He conveys more valuable insights in less time than anyone I know."

Benjamin Civiletti,
Venable, Baetjer, Howard &
Civiletti
Former Attorney General of
the United States

NYLS Law Review will present a Symposium "Legal Education: Yesterday, Today and Tomorrow".

Friday, April 12

Moderated by Dean Simon, the symposium will address the significant and controversial issues facing the future of legal education and of the legal profession.

Panelists include legal scholars and administrators at the forefront of American Law Schools.

... Class Action

Vincent Nicolosi was honored by the Lions Club of Bayside as its Distinguished Citizen of the Year for 1984.

1967
Edith Balt was one of the honorees at a Women Lawyers in Bergen County dinner.

Daniel Vinnik and Lee David Auerbach have formed the firm Vinnik and Auerbach with offices in White Plains.

1968
Leona Beane, Associate Professor at Baruch College spoke on the topic of "Operating the Corporation on a Day to Day Basis," on October 1 at the New York County Lawyers Association. She also spoke for the New York State Bar Association on a panel discussion on "Drafting Corporate Documents for the Closed Corporation" on October 12. Ms. Beane's book *The Essentials of Corporation Law* was published in 1984. A previous book written by the Professor, *The Essentials of Partnership Law* was recently cited as a major authority in a court decision involving a four million dollar medical malpractice partnership dispute heard before the Supreme Court, Queens County.

1969
Donald Frank, a former partner of Erdhein, Shalleck & Frank, and Herman Tarnow have formed the firm of Tarnow & Frank.

1970
1984 was a year of important transition for **Kenneth Zebrowski**, beginning with his taking office as a Rockland County Legislator and shortly followed by his election as the Vice Chairman of that body. In addition, upon his law partner, **Francis Nicolai's** election to a ten-year term as a Westchester County Court judge, their partnership under the name of Zebrowski and Nicolai was dissolved. Mr. Zebrowski continues the practices as the law office of Kenneth Zebrowski and has added a new associate attorney.

Francis Apicella, a former senior trial assistant with the Homicide Bureau of the Bronx

District Attorney's Office, has formed a law partnership under the firm name of Apicella, Bernstein and Milano. The firm is located at Lake Avenue in Tuckahoe, New York.

1971
Stephen Gassman was installed as treasurer of the Bar Association of Nassau County.

1972
Joseph Charleman has joined the firm of Rivera & Suarez. He was formerly the attorney in charge of the New York City Police Department pistol license hearing section.

William R. Coleman, formerly assistant corporation counsel, New York City Law Department and associate, Cullen and Dykman, is pleased to announce that he is now engaged in the practice of law with offices at Willow Street in Brooklyn, New York. His area of concentration is energy and real estate law.

Audrey King was a panelist in a symposium on "Woman in the Law Today," held at the NYLS on October 27. In addition to her consulting business, Ms. King is an adjunct professor at NYU where she teaches a course in management.

Marvin Raskin wrote an essay for the "Scarsdale Inquirer" based on his experiences in defense of Mrs. Hermania Albo (re the case of the Praca Day Care Center in the Bronx), which was published on November 29. Mr. Raskin is a former assistant district attorney in the Bronx, who is now in private practice with offices in Hartsdale and the Bronx.

Hon. Carmen Cagnetta, Jr. has been re-elected treasurer of the NYLS Alumni Association. Judge Cagnetta was appointed Judge of the New York City Family Court. Mr. Cagnetta had been Deputy Inspector General of the Fire Department. He was an Assistant District Attorney of Richmond County before joining the Fire Department in 1981. Family, friends, and NYCFD officials were on hand to witness the swearing-in of Mr. Cagnetta by Mayor Koch on August 1.

1973
Linda Cassano is one of three SEC administrative officers conducting proceedings regarding charges against the stock-brokerage company of Rooney Page and its president.

Lorin Duckman, a member of the Board of Directors of the NYLS Alumni Association has become a member of the law firm of Mordkofsky, Goldstein and Duckman. **Justin Levine '84** is associated with the firm. Mr. Duckman was moderator of a Practical Legal Education Panel sponsored by the Alumni Association on the topic of the "Future of the Supreme Court." Mr. Duckman also gave a presentation to members of the NYLS Trial Lawyers Association.

William Kohlhepp, Jr. has been named to the post of Municipal Court Judge, Hillsborough, N.J.

I. Steven Krup has resigned from the Immigration and Naturalization Service, United States Department of Justice, and has commenced private practice at Federal Building, Suite 120, Norfolk, Virginia 23510.

Linda Nelson announced the opening of new offices at 2315 Westwood Boulevard, Los Angeles, California; for the general practice of law and the transaction of business and real estate brokerage.

1974
Patrick Alfieri recently formed a new business (Lithographs Corporation-212-687-2676) specializing in design and production of litigation visual aids and demonstrative evidence.

Lance Freed was attorney for the plaintiff in an action that resulted in a \$6.9 million structured settlement. The action was brought on behalf of a teenage boy who was struck by a car while riding his bicycle on a Brooklyn sidewalk five years ago. Seventy-five percent liability was apportioned against the Phillip Morris Corp., the owner of one of the two cars that, after a street collision, jumped a curb and struck the then nine-year old boy.

Steven Harris married the former Ann Hawk of Miami, Florida. Mr. Harris is in private practice in Miami.

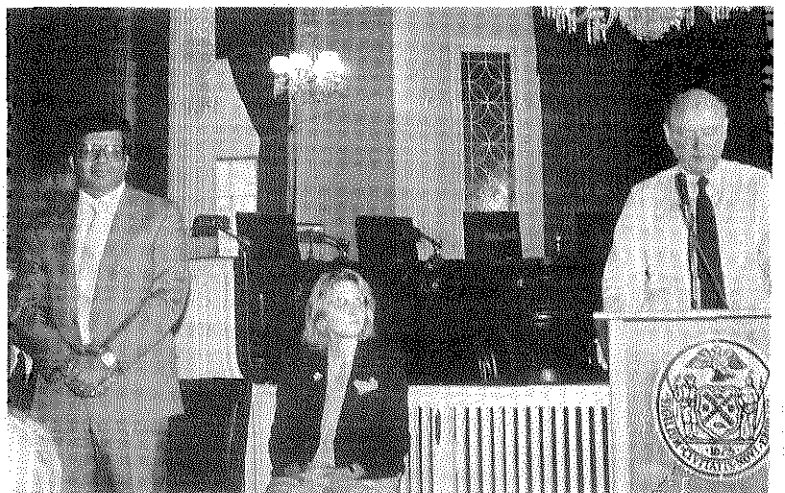
George Heymann has been appointed as chairperson of the Young Lawyers Committee of the Queens County Bar Association. Additionally, the officers and directors of the Brandeis Association have installed Mr. Heymann as the new president of the Association. Also he received the Distinguished Service Award, for his contributions to the Civil Trial Institute of St. John's University School of Law.

Carol Kriesberg was a panelist in an all day symposium on "Women in the Law Today," held by the Legal Association for Women of New York Law School on October 27.

Joseph Leshen has been sworn in to practice before the Pennsylvania Bar and has just passed the Florida Bar Exam.

Stanley Rothstein and his wife announce the birth of their son Zachary Adam, born on October 2. Mr. Rothstein is a trial attorney (enforcement) with the SEC.

(continued on page 14)



Honoris Causa



(From left to right): Professor Otto Walter, Dean James Simon, Honorable Geraldine Ferraro, Professor Eugene Rostow and Judge A. Leon Higginbotham.

Eugene V. Rostow— Sterling Professor of Law and Public Affairs, Yale University Law School.

Professor Rostow's consummate skills as a statesman, scholar and legal educator coalesce to bridge academe and the global community. Whether as Dean and Professor at Yale Law School or director of the Arms Control and Disarmament Agency, Professor Rostow has been dedicated to safeguarding individual creativity and dignity within a democratic and free society.

Otto L. Walter '54— Walter, Conston & Schurtman, NYLS Adjunct Professor.

Distinguished international lawyer and citizen of the world, Otto Walter emigrated to America from his native Germany and has served both countries with honor and distinction. A founding partner of the New York law firm of Walter, Conston & Schurtman, Otto Walter is supremely eminent in the fields of foreign and international tax law and generously shares his expertise with the students of New York Law School.



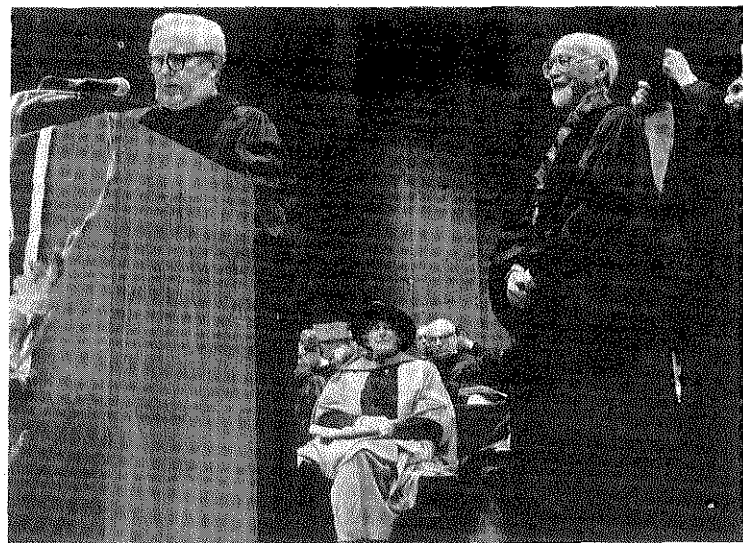
Geraldine Ferraro is hooded by Associate Dean Margaret Bearn. Vice Chairman Alexander Forger looks on.

A. Leon Higginbotham, Jr.— Judge, United States Court of Appeals for the Third Circuit.

Esteemed Judge, renowned legal scholar and eloquent spokesman for social justice, the Honorable A. Leon Higginbotham is at once Solomonian jurist and champion of the oppressed. Throughout his distinguished and demanding career as a committed lawyer and dedicated public servant, his seminal contributions to scholarship reveal new insights in jurisprudential thought and social awareness.

Geraldine A. Ferraro— Former United States Congresswoman, first female Vice-Presidential candidate.

Elected to Congress in 1978, Geraldine Ferraro's reputation and influence in Congress flourished dramatically during her three terms in the House of Representatives. Geraldine Ferraro's exceptional political acumen and charismatic presence enabled her to become not only an exemplary representative of her constituents in the 9th Congressional district of New York, but placed her on center stage in the national political arena.



Otto Walter '54 is hooded by Trustee Sylvia Garland '60 as Chairman John Thornton reads citation. Professor Rostow is at center.

PRIZES AWARDED

**WALTER M. JEFFORDS, JR.
DISTINGUISHED WRITING AWARD**
In Memory of Sylvester C. Smith, Jr. '18

FACULTY AWARD
George Dent, Jr.

STUDENT AWARD
Paul Niall Gruber

ADJUNCT FACULTY CERTIFICATES
*In Recognition of Distinguished Service
to the Scholastic Excellence of the Law School
and the Profession*

FIVE YEARS OF SERVICE

Harold Baer, Jr.
Edwin H. Bennett
E. Carrington Boggan
Robert E. Clem
Leonard L. Finz
Jul E. Graham '78
Nancy Ledy Gurren '75
Lee L. Holzman
John J. Jerome
John W. Johnson
Vincent D. McDonnell
David Minars '70
W. Bernard Richland
Irwin Alan Rosenberg
Norman C. Ryp '57
Nelson Seitel
Martin Siffen

TWENTY-FIVE YEARS OF SERVICE
Joseph T. Arenson

THIRTY-FIVE YEARS OF SERVICE
Sidney H. Asch

THE TRUSTEES' PRIZE

For the Highest Average
Peter R. Schwartz
(Day Division For Three Years)
Alan Joel Laska
(Evening Division For Four Years)
Jacob Rahmannan
(Mid-Year Division For Three Years)

ALFRED L. ROSE AWARD
For Excellence
Mitchell George Williams

WOODROW WILSON AWARD
For Proficiency in Constitutional Law
Jacob Rahmannan
(Day Division)
Alan Joel Laska
(Evening Division)

**MORRIS J. AND BETTY KAPLUN
FOUNDATION AWARD**
*For the Highest Average in Consumer Law
Honoring the Memory of Daniel Grossman '25*
Cynthia Susan Papsdorf

**MURRAY STOCKMAN
MEMORIAL AWARDS**
*For the Highest Average in the
Law of Evidence*
Charles Eugene Valliere
(Day Division)
Raymond Emanuel Cantor
(Mid-Year Division)

**LOUIS SUSMAN
MEMORIAL AWARD**
*For Excellence in the Study of the
Law of Evidence*
Carmen E. Gutwirth
(Evening Division)
Alan Joel Laska
(Evening Division)

MILTON S. GOULD AWARD
For Proficiency in the Law of Contracts
Mitchell George Williams
(Day Division)

ELSBERG PRIZE
For Proficiency in the Law of Contracts
Carmen E. Gutwirth
(Evening Division)
Alan Joel Laska
(Evening Division)

**D. GEORGE LEVINE
MEMORIAL AWARDS**
*For the Highest Grade in the
Law of Real Property*

Mitchell George Williams
(Day Division)
Carmen E. Gutwirth
(Evening Division)
Jacques Catafago
(Mid-Year Division)

**PROFESSOR JAMES P. KIBBEY
MEMORIAL AWARD**
For Excellence in Commercial Law
Peter R. Schwartz
(Day Division)
Thomas Aquinas Carr
(Evening Division)

DEAN'S AWARD
For Student Leadership
Thomas Aquinas Carr

JOSEPH SOLOMON AWARD
For Excellent Character and Fitness
Thomas Aquinas Carr

FACULTY AWARD
*To Editor-in-Chief,
New York Law School Law Review*
James Steven Goddard

SYLVIA D. GARLAND AWARD
*For Excellence in Subjects Relating to
Civil Litigation*
Selinda A. Melnik

LOUIS AND SYLVIA JACKSON AWARD
*For Outstanding Performance in
Labor Relations Laws*
Karen Ford Edler

**PROFESSOR HENRY B. ROTHBLATT
CRIMINAL ADVOCACY
WRITING AWARD**
Keith August Bachmann

PROFESSOR ALBERT KALTER AWARD
For Excellence in Tax Law
Alan Robert Birnbaum

GABRIEL GALEF AWARD
For Excellence in International Law
Michael Miller

ERNST C. STIEFEL AWARD
*For Excellence in Comparative,
Common and Civil Law*
James Hall Glanninoto

JOHN J. TORMEY AWARD
*For Excellence in Wills, Trusts
and Future Interests*
Virginia Sher Ramadan

**PROFESSOR JOSEPH T. ARENSON
AWARDS**
For Excellence in Wills and Decedents Estates
John E. Finnegan
(Day Division)
Helen Koepke Glass
(Evening Division)
Laureen C. Reddington
(Mid-Year Division)

**PROFESSOR ROBERT R. ROSENTHAL
AWARD**
For Excellence in New York Practice
Selinda A. Melnik

ALEXANDER D. FORGER AWARD
For Distinguished Service to the Profession
Kathleen G. Dusseault

**NEW YORK LAW SCHOOL
ALUMNI ASSOCIATION AWARDS**
*Presented by Hon. Eli Wager '54
Past President of the Alumni Association*

DR. MAX REICH AWARD
For Excellence in Civil Trial Advocacy
Thomas V. Pantelis

**PROFESSOR VINCENT LO LORDO
AWARD**
*For Excellence in Administration of
Criminal Justice*
Ruthann E. Kelly Geary

**PROFESSOR IVAN SOUBBOTITCH
AWARD**
*For Excellence in Poverty Law and
Civil Rights*
Linda Ann Goldman
Jacques Catafago

**NEW YORK LAW SCHOOL
LAW REVIEW AWARD**
For Outstanding Editorial Contribution
Lynne Iwanowski Constantini

PROFESSOR LUNG-CHU CHEN AWARD
*For Excellence in the Field of
Human Rights*
William Peairs Gottlieb

**NEW YORK LAW SCHOOL
JOURNAL OF INTERNATIONAL AND
COMPARATIVE LAW**
For Outstanding Editorial Contribution
Karen Ford Edler
Anita Jean Zigman

HUMAN RIGHTS AWARDS

For Outstanding Editorial Contribution
HUMAN RIGHTS is the official publication of
the American Bar Association Section on
Individual Rights and Responsibilities edited by
New York Law School
William Peairs Gottlieb
Maurine Netchin Grossman
David Eugene Michael

NATIONAL TEAM MOOT COURT AWARDS

For Serving with Distinction
Thomas Aquinas Carr
Jose Antonio Muniz
Francesca Angela Sabbatino

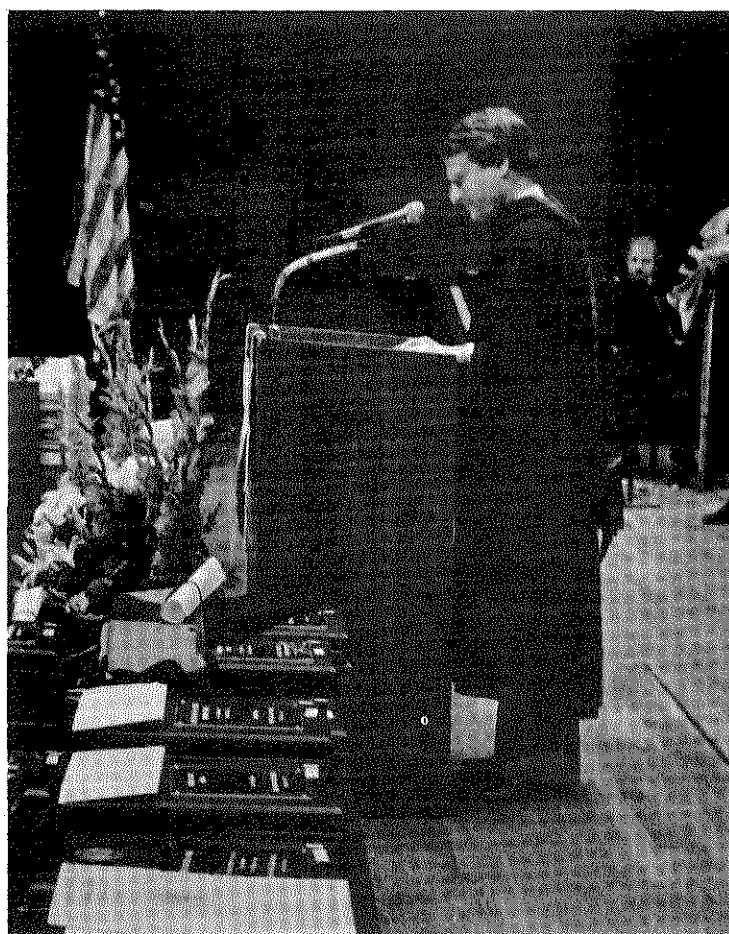
**FRANKLYN C. SETARO AWARD
OF PHI DELTA PHI**
For School Spirit and Service
Thomas Aquinas Carr

DWIGHT INN AWARD
*In Recognition of Notable Services
to the Law School Community Life*
E. Drew Britcher

**TO MEMBERS OF THE
AEQUITAS STAFF**
Justine Levine, Business Manager
Michael J. Marinangeli, Senior Editor
Evelyn Smith, Editor-in-Chief

**TO MEMBERS OF THE
ADVOCATE STAFF**
Douglas Mitchell Bern, Staff Member
Patrick Brendan McKeown, Staff Member

(Commencement 84 continues
in centerfold)



Commencement '84



Kathleen Golden Dussault '84

"We Earned It"

While the honorary degree recipients are, for the time being the most accomplished alumni of the Class of 1984, the new graduates were unmistakably the show-stealers. A very special interlude was provided by Kathleen G. Dussault '84 whose rousing remarks, as she addressed her classmates, were both an occasion for laughter and for melancholy:

It is difficult to say who is the happiest today. It may be the faculty and administration because they no longer must answer our probing questions. Or it may be our families and friends because they no longer have to endure our anxiety attacks during final exams. But my vote goes to the graduates themselves because they have survived one of the most intense academic ordeals life has to offer—affectionately known as law school.

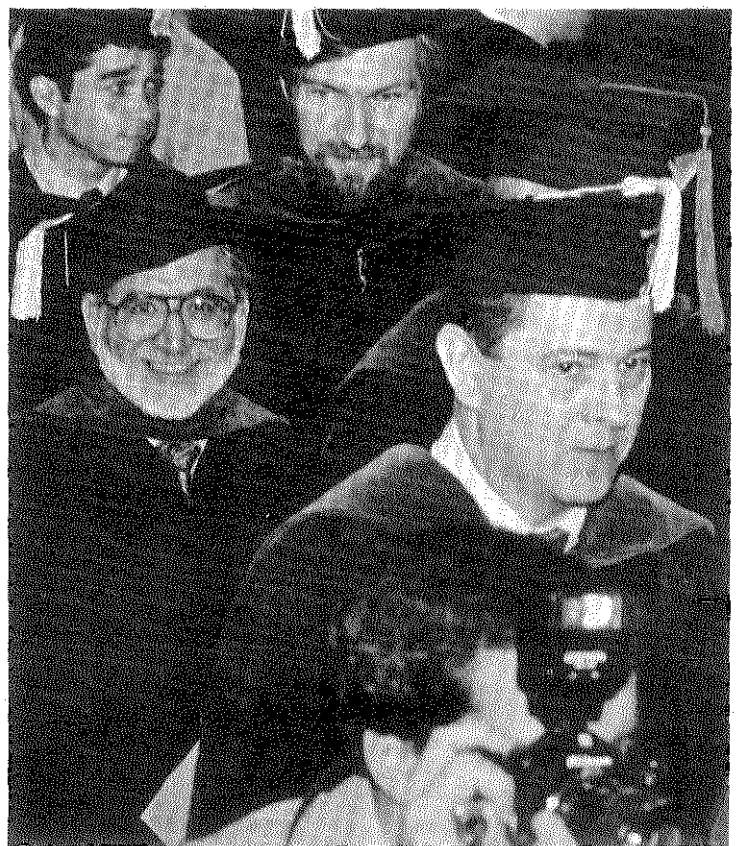
What has it meant to be a law student at NYLS? . . . The third year of Law School can be characterized as the year of the OUTLINE, because it was rare that a third-year student bought all their textbooks—or went to all their classes. We panicked about finding a job, took the MPRE and worried about the Bar Exam. We had class with Professor Silverman and learned that he is indeed a gent with style, verve and panache. We searched everywhere to find an Equity outline, but learned that "he who seeks equity, must do equity," including his own outline.

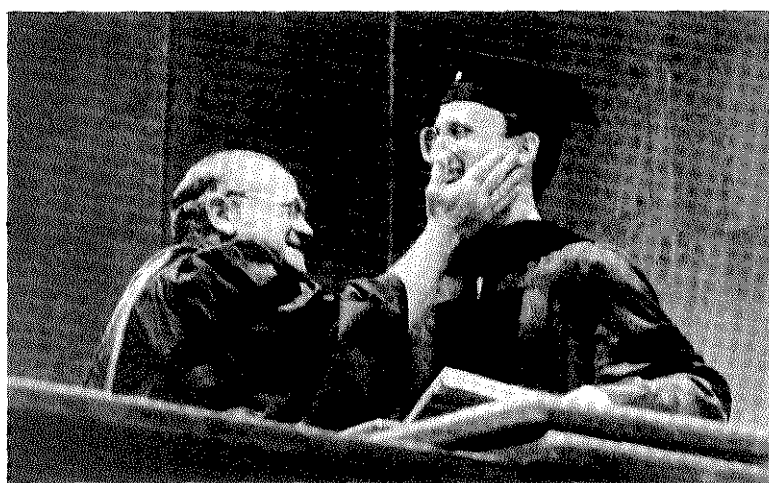
As the largest graduating class in the history of the Law School, there is much we can accomplish. We represent the future of the legal profession of this country. . .

My fellow graduates, I wish you the best—because we have certainly earned it.



Dr. Joseph Solomon '27 greets Professor Rostow





Trustee Eli Wager '54 congratulates his nephew Peter Schwartz '84.

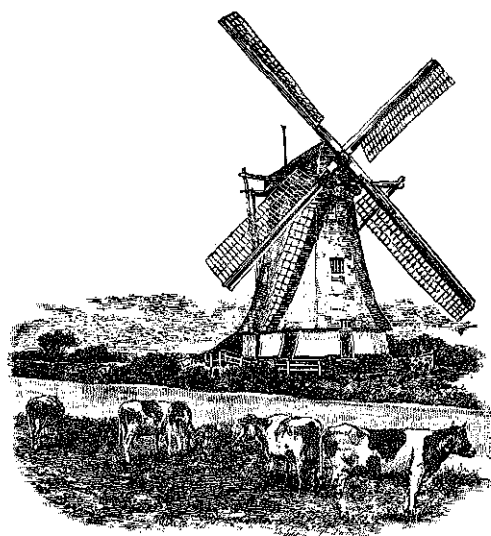
Having wished the graduates well and having cued the Recessional, Dean James Simon thanked Renee Grossman, Director of Alumni Affairs for overseeing a splendid and flawless Commencement. Consistent with the dramaturgical metaphor, Ms. Grossman was remarkably successful at "the fifth business"; working behind the scenes to ensure a grand finale.

Commencement Address

Don Quixote or Sancho Panza?

The following remarks were excerpted from the address delivered by Eugene V. Rostow at the Commencement ceremonies of New York Law School on June 10, 1984. Receiving an honorary doctor of laws from the Law School, Professor Rostow, wearing the regal red cap of his Alma Mater, brought to mind the dashing figure of Miguel de Cervantes' Don Quixote after whose travails his speech was titled.

I know of no law school which has inherited a more stirring past than yours. The legend of Theodore Dwight and the other founding fathers, who led their students into the wilderness because the Pharaohs of Columbia had embraced what they regarded as the Harvard heresy, is more than a colorful bit of parish history. It is an important moment in the chronicle of American legal education. It symbolizes the commitment of those devoted men to an abiding principle which has never been more critically needed than it is today; the conviction that law is crucial to the life of society, and that how it is studied, and therefore how lawyers conceive and carry out their duties, are causes for which serious men and women should fight and if necessary make great sacrifices. As Pitt once said, 'Where law ends, tyranny begins'. What is at stake in the endless struggle for a just system of law is the essence of our national dream, the dream of progress and liberty under law. It is not an easy struggle, in large battles and in small. To recall Churchill's remark, 'soldiers can only die once, but those who contend in the forum of public policy can die many times.' Sometimes, like Churchill himself, they have to be raised from the dead.



by Eugene Rostow

New York Law School has gone through the normal cycles of institutional life since it sprang fully armed from the brow of Columbia nearly a century ago. It has had periods of greatness, and periods of marking time. But it has taken the law seriously, as its founders did.

A strong young faculty is now in place, full of promise, ambition, and self-confidence. It has found itself as a collegiate body, a development indispensable to the fulfillment of its high aspirations for the future. Last June, the Faculty and the Board of Trustees paid me the compliment of inviting me to be Dean. I regret the stern orders of my doctors who decided six months later that the busy schedule of a Dean would be hazardous to my health. I shall always remain interested in the progress of the School, and grateful for its invitation.

But the Lord moves in mysterious ways His wonders to perform. For once, everything has turned out for the best after all in this best of all possible worlds. Dean Simon is a brilliant young scholar, whose books have already earned him a major place in the literature about the Supreme Court. And he is a teacher whose classes are a searching dialogue among equals, not a paper chase in the old fashioned autocratic style. He carried out the difficult role of Dean Pro Tem with magnanimity and grace. And the Law School community came to realize that he is not simply a good administrator but its natural leader at this stage of its history, ready to direct a fresh effort to fulfill the mission for the School proclaimed by its early Deans.

How should that mission be restated, in this period of explosive disagreement about every aspect of the law?

We live at a moment when the nay-sayers about our law and our law schools seem to be more numerous and more vociferous than ever. Jack Cade's view is always popular, at least until Jack Cade is arrested and put on trial for his life. Then he loses interest in hanging the lawyers. On the contrary, he wants to retain the best lawyer he can find to defend him.

But the law has other enemies than the simple minded followers of Jack Cade.

First, I should mention the true descendants of Sancho Panza, the lawyers who think of law as a business in the primitive sense, and act accordingly. I hope you will not follow their example. In making this point, I intend not disrespect for business, which as Brandeis wrote should also be a profession, and often is, but only that maximizing profits should not be the dominant policy goal of our work. Adam Smith's "unseen hand" is a wondrous social force, and I have spent a large part of my life praising it. But it is not a cure-all. Of course you will know many lawyers who care about nothing but money, or power, or climbing the greasy pole all the way to the top. And of course you will know crooks, too, and shysters, and other rascals, colorful or merely sordid as the case may be, and a good many incompetents as well. They are fewer than they used to be in the bad old days of the Robber Barons and Boss Tweed. But there are too many nonetheless. Treat them as they deserve.

But there is a second factor in the present uproar about the profession and the law schools which is entirely different in character, and much more troublesome: a recurrence of what can only be called nihilism in the strictest sense of that word. The revival of nihilism is decked out in the stylish apparel of the avant-garde, and it has established itself in some important places. Its dogmas attract followers from what we popularly call both the extreme right and the extreme left of the political spectrum.

Some of its sects claim Marx and Lenin as their prophets, or Edmund Burke, or Hayek, or even the Ayatollah Khomeini. Their leaders tell us that they are true children of the revolution—the ultimate nowadays in radical chic. Their call appeals to the romantic strain in our tradition. But the reality is far different. When the manifestoes of these revolutionary creeds are examined, they dissolve into miasma.

(continued on next page)

Commencement Address

As applied to the law, which is a citadel the revolutionaries know they must storm, their proclamations are not coherent and disciplined attempts to evaluate the law in the perspective of Marx, or Hayek, or any other philosopher's system. On the contrary, what the new generation of rebels is advocating turns out on analysis to be the ancient doctrine of destruction for its own sake. Burn down the temple of evil, they cry, and then we shall decide what better temple to erect in its place. We are all sometimes frustrated by the shortcomings of reason as a method for guiding the affairs of a world which is so often irrational. The reaction of the nihilists is on another plane. They reject reason altogether, and embrace irrationality in its most destructive form; the millenary doctrine of aggression. I believe that this is what you will find if you try seriously to read the gospels of the movement which calls itself "critical legal studies" and of comparable movements in philosophy, political science, and other social studies.

I find the title "critical legal studies" an arrogant exercise in semantics. All legal scholarship and all law teaching should be "critical" in the only possible philosophical sense of that term—critical in questioning premises; critical in examining evidence; and critical in fitting the evidence to all the possible hypotheses which can be advanced to explain the evidence, whether those hypotheses are fashionable or unfashionable, conventional or radical. In my view, the main object of legal education is to train lawyers who will have enough acuity to notice that the Emperor is naked, and enough moral courage to say so, in public. By that standard, the "critical legal studies" movement is not critical at all.

But the revival of nihilism is much more than the revival of defective philosophical theories. It is a true movement of revolt against the moral code of the United States and the other Western democracies. Earlier radical movements sought to reform American society by insisting that the law live up to its own promises. That is the essence of the measures our society has taken in recent years:



to stabilize employment, establish the welfare state, and fulfill the principles of equality reaffirmed by the post Civil War Amendments, and which we are in the process of achieving as a result of two generations of magnificent work by the courts, the Congress, and the people. It is the essence as well of the changes which have occurred in our foreign policy, where the United States has begun for the first time to take responsibility for its own security as an active participant in world politics. The new nihilists are not trying to perfect and improve the benign social and political revolution our constitutional system has achieved since 1932, to correct its errors, and to protect it against excesses. In the realm both of foreign and domestic policy, they are trying to destroy it root and branch.

This is hardly a time for despair about the future of western civilization, and of the culture and government of the United States, nor is it a time for despair about the future of our law and law schools, which have been in the vanguard of all that has been achieved during one of the most creative half-centuries of our life as people. It is a time of exhilarating challenge, calling for fresh thought and fresh solutions.

Many of the systems we have developed since the early thirties are creaking with arthritis or even more serious ailments. It will take ruthless and fundamental thought and courageous political leadership to solve the problems of inflation, or peace, and of crime, prisons, and the administration of justice, to name a few. These challenges demand our attention at every level of our work—in villages and towns, in the big cities, and in Washington. To meet those challenges will take lawyers trained at the highest and most demanding theoretical level—not apprentices taught by rote, and incapable of viewing the law as a system. What is in short supply now, and will be in short supply for years to come, are lawyers and law teachers who can recognize and perform their first duty—in Holmes' words, the

duty to weigh the considerations of social advantage which lie behind every legal rule and policy.

Members of the graduating class, I congratulate you on your achievements, and wish you well in our profession. I hope you have absorbed here a conviction—a touch of legal philosophy, if you will—that will turn out to be the best possible compass for your professional lives: the conviction, namely, that the business of the law is justice—the ideal of justice towards which our culture strives; and that your highest satisfaction as a lawyer in great cases and in small will be to help bring the law that is, the living law, the law at the end of a policeman's stick, closer to the aspirations for law which are imminent in our culture. As you struggle with the intricate procedures of the law, even of the Internal Revenue Code, it is easy to forget that the goal of these procedures is to fulfill social policies and to make great principles live. But it is so. That is what makes the career of law satisfying to those who follow the glorious example of Don Quixote. Reserve a place in your dreams for Don Quixote. You will never regret it. And you will never go astray.

... Class Action

1975

Matthew Dyer and his wife Nancy McBride Dyer are pleased to announce the birth of their first child, Jonathan McBride Dyer, in Portland, Maine on May 21. Mr. Dyer has opened his own office for the general practice of law in Augusta, after having been Assistant Attorney General for the State of Maine since 1979.

Alan Ehrlich has become a member of the firm of Levy & Ehrlich, P.C., in Newark, New Jersey.

Richard Wall has been elected a senior vice president of National Westminster Bank USA.

1976

Robin Goold has joined Paramount Pictures where he will be coordinating the copyright protection of Paramount's intellectual property throughout the world.

Steven Kleinman has been appointed to the position of Senior Vice President, Marketing, National Benefit Life Insurance Company.

Jerome Kowalski, partner in the law firm of Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey and a member of the firm's Hiring Committee, participated in an Interview Panel at NYLS on September 12.

Anthony LaBella, Jr. has been appointed an Administrative Law Judge for New York's Taxi and Limousine Commission

Matthew Mari has been named Chairman of the New York County Lawyers Association Committee on Penal and Correctional Reform. Mr. Mari was also recently appointed to the Association's Special Committee on Criminal Justice Legislation as well as to the New York Criminal Bar Association's Committees on Legislation and the Judiciary.

Mark Offen has become a member of the firm of Parker Chapin Flattau & Klimpl.

1977

Dan O. Henry, La Jolla, California has just organized the Planned Giving Roundtable of San Diego for some 50 fund raisers. Mr. Henry is currently chairman of the Planned Giving Committees for the University of San Diego and for the Boy Scout Council of San Diego County.

Iana Horowitz, attorney at law, is pleased to announce the relocation of her office to: 310 Chagrin Plaza East, 23811 Chagrin Boulevard, Cleveland, Ohio 44122.

Leonard Kiczek has been installed as the president for the Bayonne Rotary Club.



Judith Reichler has been appointed by Governor Cuomo to direct the newly created New York State Commission on Child Support. Ms. Reichler is the former director of litigation for Mid-Hudson Legal Services, Inc., which has its main office in Poughkeepsie. She is also president of the Mid-Hudson Women's Bar Association and a member of the board of directors of the Women's Bar Association of the State of New York and the New York Coalition Against Domestic Violence.

Bruce Torino announces the relocation of his law firm to 100 Herricks Road, Mineola, New York.

1978

Stephen G. Eisenberg is the author of an article entitled "Policy Considerations of Unemployment Insurance to Strikers," which was published in the July, 1984, *New York State Bar Journal*.

Susan Erda was a panelist in a day-long symposium on "Women in the Law Today," held by the Legal Association for Women at New York Law School.

Richard Koral is now associated with the law firm of Levin & Weintraub & Cramos of Manhattan.

Ruth Lipton and Lucille Rosenstock are continuing the practice of law under the firm name of Lipton and Rosenstock at Blauvelt, New York, with Stanley B. Michelman, P.C. as consultant specializing in private placement adoption.

Rita Stein, attorney at law, is Instructor of Business Law at New York Institute of Technology. She has been appointed chairperson of the Lawyers Referral Service for the Nassau County Bar Association and, in that capacity, has been speaking on radio and TV. She has also lectured at and chaired seminars presented by the Nassau County Academy of Law for its members. Property Rights in Divorce, Automobile Accidents and Buying or Selling a Home; were three of the topics touched on in the recent newsletter, "Reports On The Law," produced by Ms. Stein and Cora Glasser.

Scott A. Weiner has recently resigned as the executive director of the New Jersey Election Law Enforcement Commission, in order to assume the post of executive assistant to U.S. Senator Frank Lautenberg of New Jersey.

Sharon Wirkus has joined the legal department of Cyclops Corporation, a diversified Fortune 500 corporation, headquartered in Pittsburgh.

1979

Katherine M. Burns has been elected first vice president of the Metropolitan Women's Bar Association.

Dennis Cavanaugh has been practicing law in Washington, DC since the end of 1982. His practice involves public and private international law, in particular, international trade regulations. Under the sponsorship of the German-American Lawyers Association of which he is a member. He gave a series of lectures in Germany last November on Patent and Trademark Infringement Actions before the U.S. International Trade Commission.

Susan Cohen DeStefano

appeared as Popagena in the Opera Stage Production of The Magic Flute in September. She will make her solo recital debut in the Spring of 1985. Ms. DeStefano is an attorney with the U.S. Department of Health and Human Services.

Jamie Fishman's color photograph exhibit, "Prints of the City," opened at Modernage Gallery on December 7.

Francis Spilke Kaplan has been installed as secretary of the Brooklyn Council of Women Lawyers.

Carolyn Spiro and Greg Cannata '77 are the proud parents of Alison Beth, born March 4, 1982. At the time we went to press, Carolyn and Greg were expecting their second child in December. Mr. Cannata is an associate with Schneider, Kleinick & Weitz of New York City, and Ms. Carolyn Spiro is in private practice.

Jonah Triebwasser has been named Supreme Court reporter for the *Law Enforcement News*, a bi-weekly national newspaper.

1980

Bruce Colfin is president of Legalvision, Inc., where he is also producer and director of a unique educational videotape series. Mr. Colfin is also associate producer of "Blues Alive" released by RCA Videodisc.

Dean Cycon now lives on Cape Cod after two years with LeBoeuf, Lamb Leiby and MacRae of New York. His private practice is in maritime and environmental law. He has been representing treasure hunters and archaeologists in undersea explorations and has worked with Indian tribes in the U.S. and Canada. Mr. Cycon was recently elected Chairman of Cape Cod Coastal Zone Management Advisory Committee. He is currently a Research Fellow at the Marine Policy and Ocean Management Center.

Kathleen Grimm received an LL.M. (Tax) from New York University, May 1984.

Raymond Pilch has been promoted to managing attorney of the Rockland County, New York office of Jacoby and Meyers.

Charles Radcliffe and his wife **Sarah Jeffords '81**, proudly announce the birth of their son, Samuel, on November 21. Mr. Radcliffe has been promoted to vice president at Dean Whittier Reynolds, Inc., in the Corporate Finance Department, where he specializes in health care companies.

1981
Justine Clark has been named assistant vice president of Manufacturers Hanover Trust Company.

Edward Lopez is pleased to announce the opening of the law offices of J. Edward Cardoso & Edward Lopez, located at 64-16 Roosevelt Avenue.

Ellen Mandelbaum is pleased to announce that she has formed a partnership for the practice of law with Phyllis J. Kessler in Manhattan under the firm name of Kessler and Mandelbaum.

Maria Melchiori has been installed as vice president of the Tri County Women's Bar Association of the State of New York, covering the counties of Orange, Ulster and Sullivan. She is associated with the Commercial Department at Rider, Drake, Sommers & Loeb, P.C. in Newburgh, New York.

Lisa Savitt is back in New York working as an associate in aviation law with the firm of Bigham, Englar, Jones and Houston.

1982
David Cohen's review of Kenneth Dam's *Rules of the Game* was published in *Law Books in Review* XI, 1984.

Donna Ferrara will be joining the Legal Department of the Home Insurance Company in New York City.

Steven Hornstein and Mary Libassi happily announce their engagement.

Richard K. Lewis has opened his own law office where he will concentrate in the area of uncontested divorces. A three-page article concerning Mr. Lewis' practice appeared in August 6, 1984 edition of the *National Law Journal*.

1983
Iris Altchek is pleased to announce the opening of her office for the practice of law at North Main Street, New City, New York.

Edward Christensen is clerk for Judge Boris Radoyevich in the Second Circuit Court.

D. Scott Conchar is married to Ferebe Bunker Watson.

Claire Zimmerman Durst has been appointed law clerk to Chief Judge Constance Baker Motley of the Southern District Court.

Arthur Helfman announces the opening of his office for the general practice of law in Manhattan. Apprentice journeyman, foreman and shop steward of Local 3 IBEW, he has offered free legal consultation to members of Local 3.

Elizabeth Joslin married Douglas Orr Logan, an editor of nautical books for Dodd, Mead and Company in New York.

Simon Kogan announced the opening of his office for the general practice of law at Wall Street in Manhattan.

Sabrina Kogel has been selected as a law clerk for the Honorable Serene M. Peretti, United States Magistrate, District of New Jersey.

Carole Orzio Schryber has accepted a position as an associate with the law firm of Carlin & **Newton '73**, located in Manhattan. The firm's practice emphasizes matrimonial litigation, personal injury and medical malpractice.

Lawrence Sheehan has been appointed to the staff of Bronx District Attorney Mario Merola's office.

1984
Ernest Burstein was appointed to the position of assistant corporation counsel of the City of New York.

John Cox is assistant corporation counsel with the City of New York.

Meryl Dewey is a law clerk with the Division of Investment Management, Securities and

Exchange Commission, Washington, D.C.

Karen Ford Edler is law clerk for the Honorable Robert Hamer, Superior Court Judge, Bergen County, New Jersey.

John Finnegan was appointed as an assistant on the staff of District Attorney Robert Morgenthau.

Brian Foley is associated with the firm of Wilson, Elser, Edelman & Diller of New York City.

Ruth Ann Geary, Assistant District Attorney, Nassau County, presented a discussion for NYLS students on the best way to prepare for the district attorney interview.

Paul Giappone has been appointed as an assistant on the staff of Bronx District Attorney Mario Merola.

Elizabeth Greenfield is associated with Julien & Schlesinger of New York City.

Eric Kaminoff has been appointed as an assistant on the staff of Bronx District Attorney Mario Merola.

Eric Kaplan is in partnership under the firm name of Kaplan & Kaplan. The firm, located in Marlboro, New Jersey, is engaged in income tax and estate planning.

Denise Lanchantin has been appointed as assistant on the staff of Kings County District Attorney Elizabeth Holtzman.

Thomas Leonard has been appointed as an assistant on the staff of Bronx District Attorney Mario Merola.

Elizabeth Lesser has been appointed as an assistant on the staff of Kings County District Attorney Elizabeth Holtzman.

Justin Levine is associated with the firm of Mordofsky, Goldstein and **Duckman '73**.

Andrew Lupu married Susan Picker on August 12. He is an associate in the New York City law firm of Dunn and Zucker- man, P.C.

Jose Antonio Muniz married Jeanne French Cameron. Mr.

Muniz is with the firm of Mel Sachs in New York City.

Donna Gareri Nebel and her husband, Rick, became parents of a baby girl, Christina, on June 24.

Elvin Nimrod spoke on domestic sponsorships at an immigration seminar sponsored by the New York Regional Chapter of the Caribbean Action Lobby and the Mid-Brooklyn Health Association.

Sylvia Ospina is attending graduate school at the Institute of Air and Space Law, McGill University, Montreal.

Marvin Pope has been appointed as assistant on the staff of Kings County District Attorney Elizabeth Holtzman.

James Sandnes has been appointed as clerk to Judge Mary Johnson Lowe of the Southern District Court.

Vincent Scala has been appointed as an assistant on the staff of Bronx County District Attorney Mario Merola.

Rudy Velez has been appointed as an assistant on the staff of Bronx County District Attorney Mario Merola.

Eugene Ward is assistant general counsel, News World Communications, Inc.

Marc Whiten has been appointed as an assistant on the staff of Bronx District Attorney Mario Merola.

Betty J. Williams has been awarded the Abraham Markhoff Prize for the best paper in the area of worker's compensation by the New York State Worker's Compensation Bar Association.

Jeffrey Wilson has been promoted to assistant vice president-corporate division. He and his wife Cyrilé had a son, David Jonathan, on March 28.

Please direct information for Class Action to:
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New York Law School Honors Supreme Court Justice Blackmun



(From left to right): Justice Harry Blackmun, Professor Wade McCree, Jr. (former U.S. Solicitor General and NYLS honorary degree recipient), Justice William Brennan and Dean James Simon.

Fellow Supreme Court Justices William Brennan and William Rehnquist joined Dean James Simon, Law School Faculty and students and other members of the legal community to honor Justice Harry Blackmun and Mrs. Blackmun at a reception hosted by Dean James Simon on January 5, at the Washington Hilton Hotel in conjunction with the School's participation in the American Association of Law School's Annual Meeting. Upon introducing the Associate Justice, Dean Simon said that a "Blackmun opinion characteristically reveals a tension between government integrity and individual rights. His opinions reflect the man; loyal to his country and its institutions, caring and sensitive to the needs of its individual citizens."

UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT
WASHINGTON, D. C. 20001

ROBERT H. BORK
UNITED STATES CIRCUIT JUDGE

RECEIVED

FEB 11 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

February 6, 1985

Honorable Roger J. Miner
United States District Court
Northern District of New York
Albany, New York 12201


Dear Judge Miner:

Thank you very much for the copy of "O Albany!". Both my wife and I will read it with great interest. You are mistaken, however, in thinking that I have strong feelings about the Rockefeller Mall. I say unkind things about the Mall only to tease my wife.

Your lecture on the history of your court also looks quite interesting. Jose Cabranes is a friend of mine. When next I see him, I will reprimand him for referring to the Southern District as the "Mother Court".

My wife and I enjoyed meeting you and your wife.

Sincerely,



Robert H. Bork

RHB/hh

New York State Bar Journal

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FEB 14 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

February 11, 1985

Hon. Roger J. Miner,
United States District Court,
Northern District of New York,
Albany, New York 12201.

Dear Judge Miner:

Thank you for your letter of January 15
enclosing a copy of your address at New York Law
School.

Rather than edit your talk, I would prefer,
if you will, that you put it in the form of an article
by deleting the speech aspects of it. Then we will
publish it under a title which you might like, such as
"A Judge's Advice to Today's Law Graduates."

I think the article would be well received.
But it will have more impact if it is an article
in the Journal rather than just a reprint of your
speech.

Be sure to keep the fine footnotes which you
have included because they add much to the article.

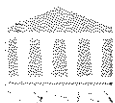
Please send a photograph of yourself and a
brief biographical sketch to accompany the article
when it is published.

Thank you for your interest in the Journal.

With every good wish.

Very sincerely,

Eugene C. Gerhart
EUGENE C. GERHART,
Editor in Chief



accusations, thus acquiring the reputation for protecting the individual against false charges."

According to authors Marvin E. Frankel and Gary P. Naftalis in their book, *The Grand Jury — An Institution on Trial*, the early grand jury in this country not only initiated prosecutions but, in several colonies, acted as a spokesman for the people, a sounding board for their leaders and a vehicle for complaints against officialdom.

As in England, the authors said, "colonial grand juries undertook to protect the individual from oppression.

"The most celebrated case," they said, was that of John Peter Zenger, a New York newspaper publisher who had criticized the colony's governor for seeking to prosecute him for criminal libel. Two grand juries refused to indict him. Royal authorities circumvented that defeat by prosecuting him with an information — a written accusation drawn up by a prosecutor. But the trial jury refused to convict him.

As relations between England and the Colonies tensed, grand juries became a means of protesting abuses by the crown's emissaries, and, the authors said, "the broad sweep of grand jury activities continued through the Revolution, with panels functioning as patriotic organs and propaganda agencies."

During the Civil War, antiwar publications felt the wrath of grand juries, which publicly warned three newspa-

In recent years, there has been mounting criticism that the grand jury no longer fulfills the founders' intent and is used to harass and oppress those summoned to its secret chambers. Critics maintain that prosecutors orchestrate the proceedings, presenting only prosecution-oriented evidence behind closed doors, where defense evidence and cross-examination are forbidden.

England — where the grand jury originated — abolished the whole system in 1933, concluding it had become a "rubber stamp" for prosecutors.

In 1833, the U.S. Supreme Court ruled that the constitutional grand jury requirement did not apply to states, but all have retained it, in various forms, in their own constitutions.

To abolish the present federal grand jury structure would be to change the Bill of Rights for the first time, which some experts feel would set a dangerous precedent.

It would require a constitutional amendment, which U.S. District Judge Roger J. Miner of the Northern District of New York believes Congress would not be disposed to enact.

He pointed out that the Comprehensive Crime Control Act of 1984 resulted in a "massive overhaul" of federal procedure, but left the traditional grand jury intact.

Nor does Miner — as a federal judge and a former Columbia County district

Most of a county grand jury's work in New York involves review of evidence against persons already accused of crimes. It may either indict or clear them. Those indicted are further prosecuted, but with full rights to defense resources.

As an accuser, the grand jury indicts only when it finds "probable cause" to believe a crime has been committed by the accused.

In its investigative capacity, the grand jury uses subpoena, immunity and contempt of court powers to elicit information and detect criminal activity and those responsible.

In this role, the grand jury gathers evidence in such areas as organized crime, narcotics rings and corruption in government, and hands up indictments of those believed involved.

Such investigations may be launched on the district attorney's initiative or in response to requests from government agencies. Presentation of evidence to the grand jury may be made by a district attorney or special prosecutor. State Organized Crime Task Force investigations, for example, are routinely handled by the attorney general.

One of the most controversial functions of the grand jury is the investigation of conduct of a public official. This may lead to an indictment or, if the grand jury finds conduct which was wrong but not criminal, to a report recommending discipline or removal from office.

Such reports are initially sealed. Through a complex pattern of judicial review, these reports eventually may become public records — or they may remain forever sealed.

A shield for innocent or a prosecutor ploy?

• Second in a series T.U.

By Shirley Armstrong

Staff writer

The man accused of burglary was about to go to trial. He stood, quaking, before the very men who had accused him — the 16 royal justices of the Grand Assize. Then he was thrust into a tank of water.

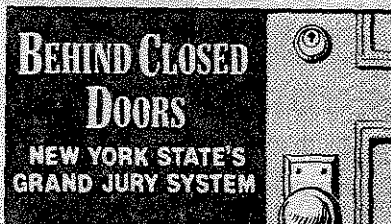
If he was innocent, he floated. If he was guilty, he sank.

That was the system of justice about 800 years ago in 12th century England.

Today's American grand jury, a descendant of the medieval Assize, subjects no one to trial by physical ordeal. But there are those who feel the defendant will figuratively sink or swim at the pleasure of the prosecutor — and, as the system has evolved, is most likely to sink.

What is a grand jury today?

It is a panel of 23 citizens, randomly selected from the community. They hold an awesome power, wielded



primarily through subpoena, and conduct their proceedings in strict secrecy.

Theoretically, these citizens protect individuals against governmental oppression by shielding them from unsubstantiated accusations. But critics have said that power may be abused by prosecutors using grand juries to wreck lives, careers and reputations.

"The grand jury has a valuable history — and it has probably outlived it. Good things are increasingly outweighed by slowness of the process, domination by the prosecutor and

See JURY / A-6

JURY

Continued from A-1

other abuses," said Van Zwisohn, executive director of the New York State Coalition for Criminal Justice.

Prosecutors present information and question witnesses before grand juries and serve as their legal advisers. The prosecutors are not permitted to remain in the grand jury room during deliberations and voting, although they routinely prepare the resultant indictments or reports.

In Albany County, six or seven grand juries are drawn each year, each routinely serving three months, but some extended by court order to complete ongoing investigations. Special grand juries may be empaneled to conduct protracted investigations into specific matters.

The modern grand jury traces its ancestry to England, where Henry II enacted the Assize of Clarendon in 1166.

The Assize provided that an inquiry should be made on the oath of 12 men from every 100 and of four men from every village, as to whether a person was suspected of robbery, burglary or theft or of harboring those guilty of those crimes. It was the duty of the sheriff to canvass the countryside for members.

The Assize of Northampton, created in 1176, expanded the crimes covered to include forgery and arson. Gradually, the categories were expanded to cover most serious crimes.

The Grand Assize, as set up in the initial 1166 edict, was established, historians say, not as a protection for the public against governmental oppression, but as a means for the king to

wrest the administration of justice from the church and the feudal barons.

Albany County Chief Assistant District Attorney Daniel S. Dwyer, who also teaches criminal procedures law and trial tactics at Albany Law School, explained that the church had conducted trials for violations of canon law, and secular authorities wished to minimize the church's influence.

The royal justices were themselves the primary sources of "evidence," including rumors and gossip — and once they had preferred criminal charges, they presided over the trials of the accused.

In medieval times, the accusation was followed by "trial by ordeal," in which the defendant was subjected to some form of torture — by water, perhaps, or by fire. Essentially, he was deemed innocent only if he survived, more or less intact.

Trial by ordeal was abandoned in the 13th century, but the accused still had little likelihood of acquittal, since he was tried by the very panel which had indicted him.

That practice soon fell into disfavor and the accused was given the right to question any indictor who was a member of the grand jury. No grand juror could sit as a trial juror if the accused objected.

By the mid-1300s, it was established principle that no indictor could sit as a trier of the accused.

The grand jury also was allowed to prefer charges, whether or not there were private accusers, and the practice of the grand jury hearing witnesses was established.

By the end of that century, criminal jurisdiction was removed from the king's justices to justices of the peace or justices of the Courts of Assize, depending upon the gravity of the

crime, with the more serious crimes, such as those against the state, referred to the latter.

The county sheriff continued to call grand juries, summoning 24 men, of which 23 constituted the official jury, with a majority vote needed to bring an indictment. It became custom that no matter how many jurors attended, at least 12 had to concur.

Eventually, the grand jury was restricted to making accusations and conducting general investigations, while trials became the responsibility of petit juries.

"It was not until 1681 that the grand jury appeared as a body free from royal influence," Dwyer said. "This came about with the case of the Earl of Shaftsbury. The crown charged him with high treason and demanded that the grand jury hear evidence in open court. But the grand jury insisted upon a closed hearing and failed to indict."

"Thus it established itself as a guardian of individual right, standing between the prosecutor and the accused and protecting the citizen from unfounded accusations of crime."

The American colonies adopted the English institution of the grand jury. The United States Constitution, Amendment V, requires a grand jury in federal criminal proceedings.

"The inclusion of a constitutional requirement for a grand jury for certain proceedings is indicative of the constitutional framers' desire to protect against an omnipotent, autocratic government," Dwyer said.

"The grand jury fulfills this desire in determining whether the government has produced sufficient evidence against a certain individual charged with a specific crime to justify a trial," he explained. "The grand jury acts as a screening process to eliminate spiteful

accusations, thus acquiring the reputation for protecting the individual against false charges."

According to authors Marvin E. Frankel and Gary P. Naftalis in their book, *The Grand Jury — An Institution on Trial*, the early grand jury in this country not only initiated prosecutions but, in several colonies, acted as a spokesman for the people, a sounding board for their leaders and a vehicle for complaints against officialdom.

As in England, the authors said, "colonial grand juries undertook to protect the individual from oppression."

"The most celebrated case," they said, was that of John Peter Zenger, a New York newspaper publisher who had criticized the colony's governor for seeking to prosecute him for criminal libel. Two grand juries refused to indict him. Royal authorities circumvented that defeat by prosecuting him with an information — a written accusation drawn up by a prosecutor. But the trial jury refused to convict him.

As relations between England the colonies tensed, grand juries became a means of protesting abuses by the crown's emissaries, and, the authors said, "the broad sweep of grand jury activities continued through the Revolution, with panels functioning as patriotic organs and propaganda agencies."

During the Civil War, antiwar publications felt the wrath of grand juries, which publicly warned three newspapers, including the New York *Daily News* and the Brooklyn *Eagle*, that they were encouraging the rebels. This was followed by federal action banning the papers from the mails because of disloyalty.

Long before Watergate, grand juries took the lead in battling political corruption, often acting on their own initiative despite opposition from district attorneys. In New York City, a grand jury probe toppled the notorious Boss Tweed ring, with which the district attorney had been closely associated.

In recent years, there has been mounting criticism that the grand jury no longer fulfills the founders' intent and is used to harass and oppress those summoned to its secret chambers. Critics maintain that prosecutors orchestrate the proceedings, presenting only prosecution-oriented evidence behind closed doors, where defense evidence and cross-examination are forbidden.

England — where the grand jury originated — abolished the whole system in 1933, concluding it had become a "rubber stamp" for prosecutors.

In 1833, the U.S. Supreme Court ruled that the constitutional grand jury requirement did not apply to states, but all have retained it, in various forms, in their own constitutions.

To abolish the present federal grand jury structure would be to change the Bill of Rights for the first time, which some experts feel would set a dangerous precedent.

It would require a constitutional amendment, which U.S. District Judge Roger J. Miner of the Northern District of New York believes Congress would not be disposed to enact.

He pointed out that the Comprehensive Crime Control Act of 1984 resulted in a "massive overhaul" of federal procedure, but left the traditional grand jury intact.

Nor does Miner — as a federal judge and a former Columbia County district attorney — feel that either federal or state grand juries should be abolished, although he favors state revision to conform to some federal regulations.

"The grand jury is an important part of our legal process," Miner said. "It still serves an important purpose, particularly in protecting those who are innocent from public accusation."

At either state or federal level, while some rules differ, 16 of the 23 grand jury members must be present to provide a quorum and 12 of them must agree before formal action may be taken.

Most of a county grand jury's work in New York involves review of evidence against persons already accused of crimes. It may either indict or clear them. Those indicted are further prosecuted, but with full rights to defense resources.

As an accuser, the grand jury indicts only when it finds "probable cause" to believe a crime has been committed by the accused.

In its investigative capacity, the grand jury uses subpoena, immunity and contempt of court powers to elicit information and detect criminal activity and those responsible.

In this role, the grand jury gathers evidence in such areas as organized crime, narcotics rings and corruption in government, and hands up indictments of those believed involved.

Such investigations may be launched on the district attorney's initiative or in response to requests from government agencies. Presentation of evidence to the grand jury may be made by a district attorney or special prosecutor. State Organized Crime Task Force investigations, for example, are routinely handled by the attorney general.

One of the most controversial functions of the grand jury is the investigation of conduct of a public official. This may lead to an indictment or, if the grand jury finds conduct which was wrong but not criminal, to a report recommending discipline or removal from office.

Such reports are initially sealed. Through a complex pattern of judicial review, these reports eventually may become public records — or they may remain forever sealed.

Jury awards \$20,000 in Chatham police suit

ALBANY — A U.S. District Court jury Monday awarded Werner Montag of Chatham \$20,000 in compensatory damages in his civil rights suit against former Chatham Patrolman Erwin Davis, according to Mr. Montag's attorney, Maurice O'Connell, said.

Mr. Montag dropped his claim for punitive damages.

Unconfirmed reports put the original claim for compensatory damages at \$400,000 and punitive damage at \$100,000.

The suit, heard by Judge Roger Miner of Hudson, stemmed from what started as a traffic stop and evolved into a scuffle between Mr. Montag and Mr. Davis in which Mr. Montag reportedly suffered a broken leg.

The four-man, two-woman jury deliberated nearly six hours before returning the verdict, Mr. O'Connell said.

He said the jury found that Mr. Montag was deprived of his due-process rights through:

— Excessive force used in the arrest.

— Deliberate indifference or reckless disregard of serious medical needs.

The jury rejected a claim that Mr. Montag was deprived of due process of law through Mr. Davis's initiation of prosecution based on the facts at hand, and reached no decision on a claim that Mr. Montag was deprived of his right to protection from unreasonable search and seizure, Mr. O'Connell said.

'Had nothing to hide,' false arrest trial witness testifies

PROY, N.Y.
The Times Record,
Thursday, March 21, 1985

ALBANY — A former RPI student testified Wednesday that he had nothing to hide when he answered questions early on Aug. 30, 1980, regarding the alleged rape of a woman who later identified him as a suspect.

Randy S. Muth, now 23, and his then-RPI roommate Glenn S. Schultz, 24, are suing the City of Troy and Ptlm. Joseph J. Burns, Allen J. McNail and Kenneth J. Casey in U.S. District Court for \$7 million as a result of their arrests.

Muth and Schultz, were charged with first-degree rape after a woman identified them at the Spring Lounge on Spring Avenue in Troy and later at St. Mary's Hospital as the men who raped her.

Troy Police Court Judge Edward O. Spain ruled there was sufficient evidence to hold

the suspects for the grand jury, but a Rensselaer County grand jury refused to indict them on Sept. 24, 1980.

Muth testified Wednesday that he and Schultz had left Sutters on Third Street in Troy about 3:45 a.m. on the day of the reported rape and that they were walking along Spring Avenue to their fraternity house on Pawling Avenue when police approached them in a cruiser. Muth said one of the officers pointed a gun at them and said, "Don't move or I'll blow your heads off."

The witness said he and Schultz were handcuffed and driven to the Spring Lounge where they were placed near a woman who appeared reluctant to look at them. "I heard her say 'I don't want to see anybody.' Then she just glanced at me. It looked like she didn't want to look at me," Muth said.

During direct examination by Albany attorney Slavatore D. Ferlazzo, representing Schultz,

Muth said police repeatedly asked him about his whereabouts during the morning at the time of the woman claimed she was raped but, "None of the officers told me they would check out my story."

Muth was scheduled to return to the stand at 10 a.m. today before U.S. District Court Judge Roger Miner.

Schultz gave similar testimony about the arrest and about the woman's reluctance to look at the suspects.

Schultz, who was studying to be an electrical engineer, said his arrest and prosecution affected his chances of finishing at RPI. "I couldn't go to some classes because this was on my mind," he said.

But during cross-examination by Deputy Corporation Counsel Donald Shanley who is representing the city and the three officers, Schultz admitted he was asked to leave RPI, not because of the incident, but because of poor grades.

He also admitted he was intoxicated when he left Sutters, was never under the care of a doctor and didn't consult a psychiatrist or psychologist as a result of the incident. Schultz, who now lives in Chester, Conn., is a retail manager of a stereo store in New London, Conn.

Kathryn Washock of Eagle Street in Troy testified she was in the Spring Lounge when a woman, naked from the waist down, came in between 3 and 3:30 a.m. She said she went into a bathroom and saw the woman staring. "She didn't say anything at first. Then she said 'I want to go home.' I asked if she was raped and she said 'yes.'"

Washock said another woman named Sharon asked about a description of the alleged rapist and was told that one was big, the other small.

But when Muth and Schultz were brought inside the bar, Washock said the woman became hysterical after she

looked at them. "She started screaming and crying," she said.

Washock also testified she heard Burns ask the woman several times if these were the men who attacked her. "He (Burns) said 'are you sure, are you sure?'" Washock said.

Two other witnesses also testified Wednesday.

Ralph A. Marcucio, a forensic scientist with the State Police laboratory, testified he found no evidence of semen on the victim's panties or on several pieces of Muth's clothing that were submitted by Troy police on Sept. 4, 1980. He added that two vaginal slides taken from the victim showed no evidence of seminal fluid.

Richard V. Viventi, of Troy, who was bartending at Sutters in the early morning of Aug. 30, testified he saw Schultz and Muth leave shortly before 4 a.m. and that police did not call the bar or stop by to check Muth's story.

In his opening statement, Ferlazzo said improper police procedures were used to identify Schultz and Muth as the rape suspects.

Albany attorney Kevin A. Moss, who is representing Muth, said in his opening remarks, that Troy police did not act reasonably in this case. "The first duty of a police officer is to protect the innocent, not arrest people," he said.

In his opening remarks, Shanley said police used the proper procedures in arresting and prosecuting the two men. He said the woman identified the plaintiffs on three separate occasions as the ones responsible for raping her.

Shanley also said police had "reasonable and probable" cause to arrest and later prosecute the two men based on the victim's "positive and unwaivering identifications" and "the findings of Judge Spain."

Chatham

Chatham Courier

man wins rights suit

3-21-85

A Chatham man was awarded \$20,000 Monday by a U.S. District Court jury that decided a Chatham village patrolman had violated his civil rights during a 1982 traffic arrest.

The verdict awarding compensatory damages to Werner Montag ended a one-week trial in which the Chatham man reportedly had sought more than

Please Turn To Page A-2

...Chatham man

Continued from page A-1

\$1 million in damages from the village and Patrolman Erwin Davis.

The award will be paid by the village's insurance carrier, according to village Attorney Nelson Alford.

The trial was held in Albany before Federal Judge Roger J. Miner of Greenport with the four-man and two-woman jury deliberating almost six hours before reaching a verdict that found Mr. Montag had been deprived of his due process rights while being arrested Jan. 2, 1982.

According to police, Patrolman Davis attempted to stop Mr. Montag for driving an unregistered vehicle along Route 66.

While being charged with driving an unregistered vehicle and failure to comply, Mr. Montag allegedly shoved the patrolman and a fight ensued during which the lawman suffered a groin and knee injury. Mr. Montag, additionally charged with second-degree assault, operating an uninsured vehicle, resisting arrest, harassment and disorderly conduct, was treated at Columbia Memorial Hospital.

The jury ruled that the patrolman had used excessive force during the arrest and had demonstrated deliberate indifference or reckless disregard to serious medical needs.

In reaching a verdict, the jury rejected Mr. Montag's claim that he had been deprived of due process of law and deprived of his right to protection from unreasonable search and seizure.

Mr. Montag was represented by Kinderhook Attorney Maurice O'Connell while Mr. Alford and Albany Attorney Arthur Flores represented the village and Patrolman Davis. (hm)

Cartoon producer admits smuggling pot, hashish

By Shirley Armstrong

Staff writer

Robert Sterling, 41, described by authorities as the kingpin of an international drug smuggling ring that netted more than \$60 million a year, pleaded guilty in federal court in Albany Friday to a conspiracy to distribute marijuana and hashish.

Sterling, whose operations were centered in the Catskills, New York City and Miami and accounted for about 70 percent of all marijuana and hashish brought into this country, officials said, faces a possible term of 15 years and a fine of \$125,000 when he is sentenced April 16 by U.S. District Court Judge Roger Miner.

He already is serving a 40-year term for marijuana smuggling at the federal penitentiary at Otisville, Orange County.

Sterling, who gained national notoriety as producer of the first X-rated cartoon, *Fritz the Cat*, told Miner Friday: "I conspired with others to import marijuana and hashish and distribute it." Two other charges against him will be dismissed at the time of sentencing, according to Assistant U.S. Attorney John McCann.

Four other defendants in the case also entered guilty pleas Friday and will be sentenced on April 16.

I conspired with others to import marijuana and hashish and distribute it

— Robert Sterling

case in Syracuse. McCann said Friday Lindbergh is still at large.

It has been alleged that Lindbergh handled purchasing of properties for the Sterling ring.

According to U.S. Attorney Frederick Scullen Jr., tons of marijuana and hashish were smuggled in from Lebanon, Europe and South America, and much of it was stored in "stash houses" in the Catskill region.

State Police seized 3,500 pounds of hashish from one house after it was hit by fire in August 1980, Scullen said.

Authorities also seized 5,400 pounds of hashish and 16 tons of marijuana, plus \$405,000 in cash, in houses on Fire Island, Suffolk County, and Golden Beach, Fla.

In another widely publicized federal court case, 22-year-old mystery man Tayssir Danhash,

who authorities say has baffled them since he tried to enter the United States illegally Oct. 4, was sentenced to concurrent two-year terms for attempting to enter the country under an assumed name with forged identification and for attempting to re-enter the United States after being arrested and deported from Boston in 1980.

Danhash, who has claimed to be a native of Syria and a defector from the Syrian Air Force, tried to enter the country at the Champlain border station with a bogus passport and a .357-magnum revolver, it was alleged.

The weapon charge was dismissed by Minor upon motion of Assistant U.S. attorney Bernard Malone, who said investigation disclosed the gun, purchased in Canada in September for \$800, had never been used for any illicit purpose.

Malone said Canadian authorities want Danhash for purchasing the gun under a false name and Danhash also is wanted in Argentina for forgery of government documents and fraud. He said Danhash was in Argentina in September 1982, about the time of the Falkland Islands war.

Argentina has asked the U.S. Department of State to extradite Danhash. Malone said the department and the Department of Justice will decide whether Danhash will be sent to Argentina or Canada after his release from prison here.



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Troy offers \$6,000 to settle \$7M suit

Times Record
Troy
By ERNIE ARICO
Staff Reporter

ALBANY — A \$6,000 offer has been made to settle a multi-million dollar civil rights suit against the City of Troy and three of its police officers.

Former Rensselaer Polytechnic Institute students Glenn C. Schultz, 23, and Randy S. Muth, 24, have accused the patrolmen of assault, battery, false arrest, malicious prosecution and violation of their civil rights. They are each seeking \$2.5 million in compensatory damages from the city and \$1 million in punitive damages from Ptlh. Joseph J. Burns, Allen J. McNall and Kenneth J. Casey. Under the proposed settlement, each plaintiff would receive \$3,000.

Troy Deputy Corporation Counsel Donald Shanley, Muth's attorney Kevin A. Moss, and Salvatore D. Ferlazzo, Schultz' attorney, refused to confirm that an offer was made.

But sources said U.S. District Court Judge Roger Miner suggested the settlement prior to resumption of testimony Monday afternoon. Repeated attempts to reach Judge Miner were unsuccessful.

There are plans today to discuss terms of the settlement. Testimony is scheduled to resume at 10 a.m. Wednesday if a settlement is not reached.

Muth and Schultz were charged with first-degree rape Aug. 30, 1980 after the alleged victim identified them inside the Spring Lounge Restaurant and later at St. Mary's Hospital.

Troy Police Court Judge Edward O. Spain ruled there was sufficient evidence to hold the pair for grand jury action, but on Sept. 24, 1980, a Rensselaer County grand jury refused to indict them.

Burns testified Monday the woman became hysterical after she looked at the two men inside the Spring Lounge. "She was very, very upset when she saw them. I had no doubt in my mind that she properly identified these two men as the ones who allegedly raped her."

A 19-year department veteran, Burns said he was also certain the woman looked at the suspects even though she repeatedly said she did not want to look at them at the hospital. "Other officers had doubts and they wanted to be doubly sure. McNall called because he wanted to be sure.

If they wanted to do it three or four times I would have let them, but I was sure she identified them."

Burns, who was headed up the initial investigation, said he filed charges against the two men based on the victim's statement, her identification and the physical evidence found where she was allegedly raped.

He said he verified the suspects' description with the victim and a Spring Lounge barmaid.

Burns said the description on the police dispatcher's "rack card" of one of the suspects was not the same as the one he broadcast over the police radio after receiving the description from the victim.

Burns said Muth was described as a white male, short with shoulder length hair and wearing blue jeans and a plaid shirt. The rack card described Muth as a tall, thin, white male.

He said he did not ask any other policeman to check the suspects' alibi about being in a Third Street bar, or the woman's claim that she was in a Second Street pub prior to the alleged rape.

McNall testified Monday the Troy woman never told him in

her two-page statement she had been raped.

In the statement, which McNall read to the jury, the victim said one of the suspects slapped her in the face three or four times and then she fell to the ground. "I don't know what they did to me," he read. "When they finished with me they left. I don't remember anything they did to me."

According to the statement, she left the Second Street bar about 2 or 2:30 a.m. and began walking home.

The two suspects testified last week they left a Third Street bar at about 3:45 a.m.

McNall defended his decision to bring the suspects to the Spring Lounge. "We had reasonable cause to believe they were the suspects and that she was a trustworthy witness."

He also said police did not have time to put together a controlled line-up of suspects and a photo array. "We brought the suspects to the Spring Lounge because it was still fresh in the victim's mind," he said.

Troy police Sgt. John J. Waters testified that he searched the park and found the victim's glasses, shoes and panties during the early morning of Aug. 30.

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ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

Hon. Roger J. Miner,
United States District Court,
Northern District of New York,
Albany, New York 12201.

Dear Judge Miner:

Thank you for your letter of March 12
enclosing your article which we are pleased to
have.

I have made a note of your request to
have an editor's note indicating that it was
based on your address.

With every good wish.

Very sincerely,



EUGENE C. GERHART,
Editor in Chief



Two former RPI students to get \$3,000 each in suit settlement

By ERNIE ARICO
Staff Reporter

MARCH 28, 1985
ALBANY — A \$7 million civil rights suit against the City of Troy and three of its police officers was settled out of court for \$6,000 Wednesday. But the three police officers say they are not happy about the settlement.

Two former Rensselaer Polytechnic Institute students, Glenn C. Schultz, 23, and Randy S. Muth, 24, accused the patrolmen of assault, battery, false arrest, malicious prosecution and violation of their civil rights. They were each seeking \$2.5 million in compensatory damages from the city and \$1 million in punitive damages from Ptl. Joseph J. Burns, Allen J. McNall and Kenneth J. Casey.

Under the terms of the settlement, each plaintiff will receive \$3,000, said Troy Deputy Corporation Counsel Donald Shanley. The city will pay the settlement.

Shanley said the city agreed to the settlement as a way of "buying our peace" with the two plaintiffs. "No way should this be taken as an admission of guilt on the part of the patrolmen. The police officers did a fine job investigating this case and they acted promptly in making the arrest."

Shanley also said the officers handled the case with "great

sensitivity," but that the prosecution of the two men was "something out of their (police) hands."

Muth and Schultz were charged with first-degree rape Aug. 30, 1980 after the alleged victim identified them inside the Spring Lounge Restaurant and later at St. Mary's Hospital.

Troy Police Court Judge Edward O. Spain ruled there was sufficient evidence to hold the pair for grand jury action, but a Rensselaer County grand jury refused to indict them.

After U.S. District Court Judge Roger Miner dismissed the jury and announced there had been a settlement, the officers reacted quickly to the city's decision.

"We did by law what we were supposed to do," Burns said. "The decision to settle was not my decision. I believe this trial did not exonerate the conduct of the officers."

Casey, the only officer who didn't testify during the four-day trial, said he didn't believe the police did anything wrong. "I would have wanted it to go the whole route."

McNall said he was upset no one in the city or police administration backed or defended the officers through the media. "In my opinion, that is why morale is low in the police department."

McNall also said given the same situation he faced in the case he would basically do the

same thing and conduct himself in the same way. "I think I did the right thing."

Albany attorney Kevin A. Moss, representing Muth, said the settlement was a vindication for the two former roommates. "I think the public was made aware that what these officers did was wrong. We had a good case, and we presented all the evidence to the jury."

Schultz's attorney, Salvatore D. Ferlazzo of Albany, said the settlement was a message to all police officers that they should make sure everyone is treated equally under the law. "Everyone's civil rights are guaranteed and protected."

Both plaintiffs said they were happy the ordeal was finally over. "I feel vindicated," Muth said. "I'm glad I'll be going back to school (University of Vermont) knowing that this is finally ended."

Two jurors commented after they were dismissed by Judge Roger Miner and said they believed police acted properly. "Based on the evidence that was presented up to that point, I don't think I would have awarded any damages to the plaintiffs," said one of the jurors.

Another juror said, however, she believed the two former students were "a victim of circumstances" and may have awarded some money to them. "I think they went through a lot. I felt sorry for them."



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New York Patent Trademark & Copyright Law Association

MENU

. . .
Tortellini a la Panna
Parmesan Cheese and
Fresh Ground Pepper Passed

. . .
TOURNEDO OF BEEF AU POIVRE
Julienne of Fresh Carrots
Zucchini Florentine

. . .
Salad of Bibb Lettuce, Endive,
Watercress and Cherry Tomatoes
French Mustard Dressing

. . .
Apple and Cranberry Streusel
Vanilla Rum Sauce

. . .
After Dinner Mints

. . .
Coffee, Tea, Decaffeinated Coffee

DAIS

[illegible]

[illegible]

JADE ROOM

NORTH	501	502	503	504	505
	510	509	508	507	506
				Entrance	
	511	512	513	514	515
SOUTH					

Entrance

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Baer, Hon. Harold, Jr.
Baer, Mrs. Harold, Jr.
Bren, Roberta S.
Fields, Paul
Fisher, Julius
Fisher, LeeAnn
Goldstein, Martin
McAulay, Lloyd
Nissen, Harold J.
Zisowitz, Terry S.

Ackerman, Hon. Harold A.
Ackerman, Mrs. Harold A.
Banks, Bruce
Blocker, Edward
Caslin, John
Harab, Peter
Lewis, Walter
Patton, Walter
Quinlan, Elsie
Upchurch, Gregory

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Gorman, Harold V., Jr.
Hanna, Dolores K.
Perle, E. Gabriel
Robin, Albert
Robin, Lorry
Walton, Barbara
Walton, Richard E.

Bartlett, Ernestine C.
Carten, Frances N.
Flanders, Hon. Steven
Flanders, Mrs. Steven
Flattery, Thomas O.
Terry, Howard P.
Terry, Mrs. Howard P.
Walsh, Patrick J.
Wyatt, Douglas W.
Wyatt, Mrs. Douglas W.

Carr, Francis T.
Carr, Mrs. Francis T.
Edelstein, Mrs. David N.
Feinberg, Mrs. Wilfred
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Hepner, Charles E.
Kulason, Mrs. Robert
Kulason, Robert
Miller, Clinton F.
Schermer, Leland P.

Barber, B. Ketmann
Firestone, Ms.
Hagan, William A., Jr.
Keire, Fred A.
Owen, Hon. Richard
Owen, Mrs. Richard
Reilly, John A.
Robinson, Carolyn
Robinson, Ms. Terry
Robinson, Charles

Anderson, Helen
Collins, Forrest L.
Dippert, William H.
Fidelman, Morris
Frankhauser, Dr. David E.
Frankhauser, Mrs. David E.
Libert, Mrs. Victor E.
Libert, Victor E.
O'Donnell, Daniel A.
Wolffe, Franklin D.

Greenberg, Stephen
Hanafin, Paul
Lagani, Anthony, Jr.
Laughlin, Richard T.
Markensohn, Michael F.
Morris, Birgit E.
Morris, William R.
Parker, Sheldon
Plottel, Roland
Witonsky, Robert J.

Benway, David L.
Berkowitz, Linda L.
Bloom, Hon. Max
Bloom, Mrs. Max
Chow, Frank S.
Dupont, Paul E.
Goldsmith, Delvalle S.
Parry, Malcolm W.
Spitals, John P.
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Alpert, Robert
Bowman, Hon. Amos B.
Foster, Scott T.
Galloway, Peter D.
Handelman, Joseph H.
Krivisky, Barry M.
Richards, John
Guest

Balser, J.
Chapman, N.
Hamel, R.
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Kreiger, S.
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Conciatore, Glenn
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Ford, Frank W., Jr.
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Costantino, Hon. Mark A.
Donnelly, Barbara A.
Gilbreth, William J.
Herman, Kenneth B.
Massengill, Leigh
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Sohl, Charles E.
Sohl, Mrs. Charles E.
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Coyle, Dominick
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Kane, David H.T.
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Friedenson, Mr.
Friedenson, Mrs.
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Table 29

Dumaresq, John E.
 Hausmann, Christian
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 Goldberg, Audrey L.
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 Dannel, Richard
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Boal, R. Bradlee
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Greason, Edward W.
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McMahon, Mrs. Kevin
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Konney, Mrs. Paul E.
Konney, Paul E.
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Rubin, Mrs. Israel
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Murray, James E.
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Collison, Mrs. Bert A.
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Sommer, Rudolf
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Amberg, Mrs. Stanley L.
Amberg, Stanley L.
Brown, Cecelia
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Glazer, Steven D.
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Scott, Thomas J.

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Berstein, David L.
Carulli, Mrs. Thomas G.
Carulli, Thomas G.
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Emerson, Christel
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Eda, Chieko
Hara, Akihiko
Hara, Mrs. Akihiko
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Morris, Mrs. Francis E.
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Daly, J. Spencer
Daly, Mrs. J. Spencer
Dooley, James L.
Dooley, Mrs. James L.
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Howes, Mrs. Oliver P.
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Kramer, Jack P.
Norman, Thomas
Nunn, Dr. Les
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Frechtman, Patricia
Garrity, Hon. John B.
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Grill, Murray
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Bechtold, Paul
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Table 102

Ameen, Verina S.
Dicker, Eric S.
Hoffman, Thomas D.
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Askey, Hon. William H.
Askey, Mrs. William H.
Costigan, James V.
Costigan, Mrs. James V.
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Platt, Mrs. Michael
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Corwin, Leslie D.
Costa, Thomas L.
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De Girolamo, Joseph
De Girolamo, Mrs. Joseph
DeFelice, Mrs. Vincent E.
DeFelice, Vincent E.
Huggett, Charles A.
Huggett, Mrs. Charles A.
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Chick, Marshall J.
Evans, William R.
Fazzari, Vincent M.
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Hemingway, Alfred H. Jr.
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Cohen, Terri
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DeGregorie, Robert P.
Dexheimer, Jean K.
Dompieri, Arnold B.
Grillo, Judie
Hoffman, Paul
Hoffmann, Mrs. Paul
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Pegram, John B.
Pegram, Mrs. John B.
Schundler, Mrs. Peter
Schundler, Peter
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Baron, Ronald J.
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Abrams, Samuel B.
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Degling, Donald E.
Farley, John
Hassberg, Constance
Herman, Anne
Hines, Roger A.
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Rittenhouse, Lois
Seaman, Robert
Smith, Beverly C.
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Aker, David
Fridman, Larry
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Brainard, Charles P.
Buck, Jan A.
Coruso, Rose
Delafuente, Jacqueline
Dutkus, David A.
Kareken, Francis A.
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McCabe, Philip J.
McConnell, David K.
Reichman, Jonathan D.
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Sinder, Stuart J.
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Boxer, M.
Hoffman, Frank
Maitner, John
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Clark, Lester W.
Clark, Mrs. Lester W.
Cooper, John N.
Dunham, Christopher C.
Foley, James P.
Foley, Mrs. James P.
Goulet, Carol Irene
Hughes, Steven
Tannenbaum, Mrs. Samuel
Tannenbaum, Samuel
Vig, Mrs. Vernon E.
Vig, Vernon E.

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Abrams, Carol
Friedman, Marion F.
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Ben-Ami, Leora
Collins, John F.
Duckworth, Frank A.
Gillis, Theresa M.
Heyman, Thomas V.
Koegler, Claire A.
Medhurst, Ralph C.
Morgenstern, Saul P.
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Baum, Andrew
Reece, Robert
Rolfe, Robin A.
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Amundson, Steven
Brogan, Marilyn
Brogan, Peter
Carter, David
Carter, Mrs. David
Cohen, Mark
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Grill, Steven
Mitchell, Leslie
Ravelo, C. Christina
Shiell, Ted
Shiells, Mrs. Ted
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Brown, Robert C.
Carlson, Dale L.
Kastriner, Lawrence G.
O'Brien, Cornelius F.

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Diebner, Gerald
Dupre, John L.
Dupre, Mrs. John L.
Ferrell, Michael
Kosinski, Robert
Mondolino, Dennis J.
Mondolino, Mrs. Dennis J.
Murphy, Francis J.
Rhodes, James M.
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Feiler, Mrs. William
Feiler, William
Lipscomb, Ernest B., III
Lipscomb, Mrs. Ernest B., III

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Gorman, Edward H., Jr.
Gorman, Mrs. Edward H., Jr.
Moroz, Eugene
Moroz, Mrs. Eugene
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Delaporta, Gregg
Gollin, Michael A.
Gray, William O., III
Gresalfi, Richard S.
Hampton, Philip G., II
Mansfield, Dr. Kevin T.
Mansfield, Mrs. Kevin T.
Rittman, Frank S.
Roberts, Dr. Robert McC.
Somerville, Deborah A.
Wingate, Douglas C.
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Foley, John D.
Foley, Mrs. John D.
Levin, Mrs. Neal T.
Levin, Neal T.

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Altmiller, John C.
Breneisen, Albert J.
Harney, Dr. Brian M.
Harney, Mrs. Brian M.
Keehan, Michael B.
Keehan, Mrs. Michael B.
Madsen, Kenneth E.
Martin, John R.
Martin, Mrs. John R.
Masselle, Francis L.
McNichol, William J.
Spath, Gregg A.
Tamres, Herbert J.
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Catanzaro, Joseph J.
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Marlowe, David
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Davis, Michael I.
Harbour, John
Hedman, Edward A.
Hedman, Mrs. Edward A.
Hultquist, Steven
Kelly, Michael
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Loughnane, Mrs. Michael
Reit, Frank Van
Villamizar, JoAnn
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Barken, Mel P.
Garfield, Nathaniel H.
Power, James A.
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Drivas, Dimitrios T.
Godfrey, Dr. Leonard E.A.
Godfrey, Mrs. Leonard E.A.
McTiernan, Charles E.
Mednick, Jeffrey S.
Mednick, Mrs. Jeffrey S.
Moran, Mrs. Thomas F.
Moran, Thomas F.
Powell, Maxwell M.
Reichman, Mrs. Ronald
Reichman, Ronald
Sanders, Robert J.
Schwartz, Dr. Brian B.
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Bodner, Candida
Bodner, Gerald T.
Francescani, David R.
Francescani, Maureen

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Garner, Melvin C.
Hubbard, Robert G.
Ilardi, Kathleen
Ilardi, Terry J.
Klarreich, Frieda
Klarreich, Joel A.
Ludwig, Jean
Ludwig, S. Peter
Marton, Paul S.
Savio, Maria
Schechter, Andrea
Schechter, Peter B.
Sharpe, Kenneth E.
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Chakansky, Michael I.
Del Valle, Marguerite
Passman, Aaron
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Bahr, Arthur
Bahr, Mrs. Arthur
Dunaj, Mrs. William
Dunaj, William G.
Gill, Susan
Hoare, George P., Jr.
Hoare, Mrs. George P., Jr.
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Kendall, Mrs. Aubrey
Magee, James
Magee, Mrs. James
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Voss, Mrs. Donald J.

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Fang, Peng
Lin, Bonan
Lin, Maria C. H.
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Marple, Walter G., Jr.
McLaren, Terrence
Musham, Mrs. William C.
Musham, William C.
Olschwang, Alan P.
Olschwang, Mrs. Alan P.
Russell, Douglas C.
Russell, Mrs. Douglas C.
Segan, Lawrence M.
Sniado, John L.
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Swarztrauber, Sayre

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Alford, Mary Ann
Bergin, John M.
Bergin, Mrs. John M.
Chicoine, Yvonne
Healy, Kevin J.
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McClain, Douglas
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Puccini, Lido L.
Shakely, Ronald H.
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Allocca, Joseph J.
Bittman, Mitchell D.
Doyle, Mrs. Thomas
Doyle, Thomas
Einhorn, Harold
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Lorenzo, Susanne
Maggio, Robert A.
Mitchell, Alan
Watov, Kenneth
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Brenner, Elaine P.
Brenner, Mark
Jewell, Mrs. Walter
Jewell, Walter
Keagan, Donald H.
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Regnault, Theresa
Robinson, Patricia
Robinson, William P.
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Bufithis, Gregory P.
DeCarolus, Maryann
Donovan, John J.
Harris, Leonard
McKenney, Charles E.
Murray, Josiah S., III
O'Connor, Donald T.
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Roche, Mark A.
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Miller, Eugene F.
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Beier, Norman S.
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Frayne, Gabriel M.
Jay, Ricky
Jay, Theodore
Mason, Dennis A.
Murray, Marianne F.
Schwab, Barbara
Schwab, Jeffrey A.
Svoboda, Helmuth P.
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Tannenbaum, Victor M.
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Colucci, Fleurette E.
Colucci, Frank
Gansell, Rena
Glaser, Kenneth R.
LaPolla, Charles P.
Lefkowitz, Saul
Martin, Paul V., Jr.
Notaro, Angelo
Silverstein, Arthur A.
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Beamer, Norman H.
Berry, Rynn
Gantt, Daniel M.
Giannetti, Thomas L.
Gordon, Alan M.
Hoellering, Michael F.
Hoellering, Mrs. Michael F.
Martone, Patricia A.
Morgan, Mrs. Robert C.
Morgan, Robert C.
Palladino, Vincent N.
Rogers, Laurence S.
Woglom, Eric C.
Woglom, Mrs. Eric C.

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Kahn, Mrs. Stephen D.
Kahn, Stephen D.
Marsh, Mrs. William
Marsh, William
Mycio, Mary
Neagley, Clinton H.
Neagley, Mrs. Clinton H.
Simmons, James C.
Simmons, Mrs. James C.
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Spath, Mrs. Thomas E.
Spath, Thomas E.

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Harcarik, Carol
Harcarik, Joseph
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Bressler, Marvin
DiGiglio, Frank
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McNulty, William
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Berger, Mrs. Victor
Berger, Victor
Crooks, Mrs. Robert
Crooks, Robert
Katz, Mrs. Robert D.
Katz, Robert D.
Kirsch, Jules P.**
Kirsch, Mrs. Jules P.
Schmidt, Joseph
Schmidt, Mrs. Joseph
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Furuyama, Dr. T.
Furuyama, Mrs. T.
Hu, Lianfang
Inaba, Mrs. Sukeyuki
Inaba, Sukeyuki
Jernow, Dr. Jane Liu
Miller, Charles E.
Miller, Mrs. Charles E.
Okaya, Akira
Ricciardi, Dr. Louis
Ricciardi, Mrs. Louis
Saxe, Dr. Bernhard D.
Yamakawa, Mrs. Thomas T.
Yamakawa, Thomas T.

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Feit, Valerie
Fletcher, James
Fletcher, Mrs. James
Hajdusek, Gail
Maioli, Jay H.
Maioli, Mrs. Jay H.
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O'Connell, Debra
Pelton, Mrs. William E.
Pelton, William E.
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Branthover, Mrs. Ned W.
Branthover, Ned W.
Contegni, Lorraine
Fletcher, Karen
Pledger, Timothy C.
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Brown, Jay
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Clarke, Mrs. Kevin
Ewert, Alfred
Rodwin, Mrs. Roger
Rodwin, Roger
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Bleeker, Ronald A.
Booker, Lewis T.
Epstein, William H.
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Isgro, William G.
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Steffany, Mary K.
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Connelly, Daniel J.
Connelly, Mrs. Daniel J.
MacPhee, John
MacPhee, Mrs. John
McGrath, Mrs. Richard
McGrath, Richard
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Mitchell, Robert F.
Murray, James J.
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Andres, John
Andres, Mrs. John
Atkinson, Gregory
Birenz, Jerry
Birenz, Mrs. Jerry
Dore, Janet
Nicodema, Michael
Nicodema, Mrs. Michael
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Agovino, Frank I.
Katz, Alvin
MacBlain, Thomas D.
Maune, James J.
Neuner, Mrs. Robert
Neuner, Robert
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Smith, Keith G.W.
Tenser, Arthur S.
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Bagley, Parker H.
Clark, Mrs. Richard S.
Clark, Richard S.
Larsen, Marina T.
Nolan, Robert S.
O'Rourke, Brendan J.
Phillips, Peter J.
Scheinfeld, Robert C.
Smith, Alan D.
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Anderson, Burnside
Bloom, Allen
Cummings, Bernice
Donaldson, Lorraine M.
Frost, Albert E., Jr.
Grossman, Stanley M.
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Toolan, John T.

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Barnaby, Howard B.
Barnaby, Peggy
Gittelsohn, Gary
Gittelsohn, Suzanne
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Meyers, Stephen J.
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Scherer, Robert T.
Webner, William Mack

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Abbruzzese, Karen
Abbruzzese, Salvatore
Daley, James
Daley, Joan
Rodrick, Kathleen
Rodrick, Robert
Woldman, Bernice
Woldman, Jesse

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Blum, Israel
Blum, Mrs. Israel
Flynn, Maureen
Hammond, Thomas P.
Hughes, Christopher A.
Hughes, Mrs. Christopher A.
Meyer, Robert E.
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Calvaruso, Joseph
Calvaruso, Rita
Franks, Mrs. Phillip J.
Franks, Phillip J.
Herron, Charles
Herron, Mrs. Charles
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Richter, Kurt E.
Stempel, Alan
Stempel, Mrs. Alan

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Gould, James
Gould, Mrs. James
Hu, Christopher K.
Lizardi, Marge
Radin, Mitchell
Radin, Mrs. Mitchell
Rocha, Patricia
Von Graffenrie, Christoph

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Haurykiewicz, John
Haurykiewicz, Mrs. John
Lowe, Mrs. Robert
Lowe, Robert
Marcus, Harry C.
Marcus, Phyllis
Molan, Mrs. Robert
Molan, Robert
Thiel, Mrs. Walter
Thiel, Walter

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DeNatale, Carole E.
Donelan, Ed
Eisele, Mrs. Joseph T.
Jewell, John
Larsen, Barbara A.
Levy, Mrs. Gerald
Muccio, Daniel
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Alaburda, Lawrence
Baker, Charles P.
Barrett, Hugh C.
Brunet, William J.
Cannella, Nicholas M.
Clayton, Ronald A.
Frankel, David A.
Lazzarof, Joseph L.
Leetma, Ivar E.
Noe, Alphonse R.

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Books, Glenn
Bosses, Stevan J.
Bresnick, Sidney R.
Diana, Leonard P.
Kallas, Nicholas N.
Matthews, Gale F.
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Morrill, Mark C.
Quinlan, David M.
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Brady, Theresa
Cornell, John W.
Doyle, Michael J.
Doyle, Mrs. Michael J.
Kipnes, Allen R.
Kipnes, Mrs. Allen R.
Mazza, Richard J.
Ranft, Margaret
Roux, Mrs. Philip E.
Roux, Philip E.
Yankwich, Leon R.

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Cronin, Edgar R.
Cronin, Mrs. Edgar R.
Csatari, Mrs. Thomas C.
Csatari, Thomas C.
Fraser, Donald
Hansen, Mrs. William R.
Hansen, William R.
Parks, Kevin
Sharkin, Keith E.
Stein, Irving N.

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Cummings, Susan M.
Fraser, Mrs. Donald
Grossman, Bruce
Grossman, Mrs. Bruce
Kotenberg, Kenneth
Marsh, Marcia
Shelinsky, Debra
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Beam, Robert
Eaken, Bruce W.
Garvey, Christopher
Glynn, Raymond G.
Isner, Robert E.
Kent, Felix
Simmons, Deirdre
Smith, Spencer T.
Spalla, Joseph
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Atkins, Beth
Granowitz, Jack M.
Granowitz, Mrs. Jack M.
McGuigan, E. Gayle
McGuigan, Mrs. E. Gayle
Ragan, Dr. William A.
Ragan, Mrs. William A.
Tsevdos, Estelle J.
White, John P.
White, Mrs. John P.

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Bloomberg, Mark H.
Burnside, Michael
Cochran, Eric
Cochran, Mrs. Eric
Frangos, Irene J.
Grochala, Mrs. Richard J.
Grochala, Richard J.
Hildebrand, Crista
Lieberman, Mark
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Bak, Mary E.
Barr, David K.
Indyk, Eugene S.
Isackson, Robert M.
Kennard, Wayne M.
Krieger, Deborah J.
Lentz, Janet C.
Loring, Denise L.
Pierri, Margaret A.
Vetter, Thomas J.

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Adler, A. Peter
Beck, Thomas H.
Culligan, Kevin J.
Inz, Richard A.
Johnson, Jamie
Laughon, C. Joseph, II
Ousterhout, Glenn A.
Progoff, Susan
Secrest, Thomas L.
Shulman, Ron E.

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Becker, Frants L.
Cox, Robert
Fishkin, Barry H.
Harbulak, Stephen J.
Lundqvist, Bertil
Rein, Barry D.
Sherman, Charles I.
Spitz, Arnold
Spitz, Mrs. Arnold

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Fermanis, Christopher H.
Gaglia, Charles A.
Goldstein, Michael
Krizman, Scott
Krumeich, Ed
MacAvery, J. Terence
Person, Sandra
Radding, Rory J.
Salama, Albert I.
Skola, Daniel

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Baldwin, Dr. Geraldine F.
Brennan, Alice C.
Coruzzi, Dr. Laura A.
Dulak, Dr. Norman
Friebel, Thomas E.
Goldstein, Martin E.
Gordon, Dr. Jennifer
McGreel, Michael J.
Nigon, Joseph P.
Rauch, Susan H.

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Babcock, Warner K.
Barnes, Peter
Diamante, Joseph
Digirolomo, V. Anthony
Fanucci, Allan A.
Farley, Mark A.
Forlenza, Lee A.
Kuan, Christina
Ling, Evan Dr.
Viglione, Stanley F.

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Aguale, William A.
de la Sierra, Lic Jose, Jr.
Fritz, Dr. Bertold R.
Fritz, Mrs. Bertold R.
Kavanagh, Dr. Kevin E.
Kavanagh, Mrs. Kevin E.
Whaley, Mrs. Thomas H.
Whaley, Thomas H.
Young, James F.
Young, Mrs. James F.

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Campaign, H. John
Campaign, Mrs. H. John
Dennis, Manette
Farris, Jack M.
Finder, James A.
Jaeger, Howard R.
Masucci, Stephen M.
Richards, Jack W.
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Trustee status snafu snags case

MARCH 30, 1985

By JOHN RUNFOLA

Knickerbocker News Reporter

U.S. District Judge Roger Miner may decide within the next month if former Albany Teamsters union chief Nicholas M. Robilotto should be removed as a trustee of two union pension and benefit funds.

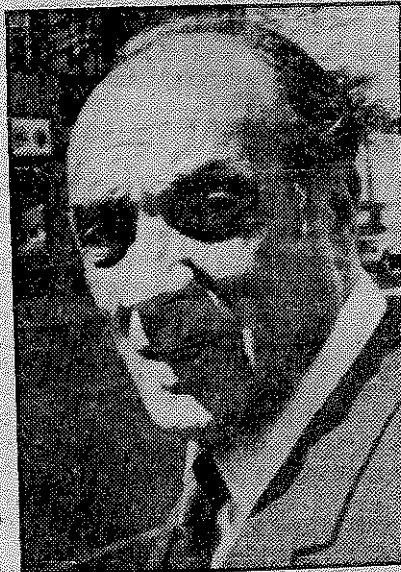
Attorney Jill Okun, who represented Robilotto in federal court in Albany Friday, told Miner her client's 1982 plea bargain with the federal government — which led to his guilty plea to federal tax-evasion charges — did not include his resignation as a pension fund trustee.

She said a letter given the U.S. attorney's office before the guilty plea was made specifically said Robilotto would not give up his trusteeships of the New York City-based Albany Area Trucking and Allied Industry Health and Welfare Fund and the Utica-based New York State Teamsters Council Health and Hospital Fund.

The funds control millions of dollars in investments. Authorities estimate Robilotto collects about \$10,000 a year in expenses from his trusteeships.

Robilotto, then president of Teamsters Local 294, would not have entered his guilty plea to the federal charges if he had known the government also sought his removal as trustee, Ms. Okun told Miner.

Union president for over two decades, Robilotto, 73, of Amsterdam, was



NICHOLAS M. ROBILOTTO

... ex-Albany Teamsters chief

sentenced in 1982 to an 18-month suspended prison term, fined \$15,000 and placed on four years probation after he pleaded guilty to failing to report to the Internal Revenue Service \$24,502 in income received from 1975 to 1977. Forty-two counts of misusing union funds were dismissed as part of the plea bargain.

Miner, who said he was involved in the "discussions" before Robilotto entered the guilty plea, said he will decide if a trial should be held to distinguish between Robilotto's post as a labor leader and his posts on the benefit plans.

He noted there was a question about whether Robilotto knew he would have to forfeit the trusteeships by entering the guilty plea.

For Judge Miner JEF

Ruling awaited in Mechanicville conspiracy suit against officials

TRIO TIMES RECORD
APRIL 16, 1985
By DEAN BETZ
Staff Reporter

MECHANICVILLE — Attorneys for Mechanicville, Saratoga County, the state and a woman suing for \$5 million are awaiting a ruling from the Second Circuit U.S. Court of Appeals in New York City.

Arguments in the appeal of the suit — which charges that city and county officials conspired to prevent proper prosecution of a sex abuse case and City Court Judge Vincent P. Pickett acted improperly in handling the case — were heard Thursday by the three-judge panel.

Albany attorney Alyssa Talanker said the judges reserved judgment.

Talanker represents Sharon Taylor, of John Moore Homes, Mechanicville, who claims that the alleged conspiracy violated her civil rights and those of a female relative who was 12-years-old when she was the victim of the alleged abuse.

Taylor is appealing the October 1984 ruling of Albany

U.S. District Court Judge Roger J. Miner, who dismissed the suit without a trial.

Court papers claim that Judge Pickett improperly handled the case when he allowed Robert O'Keefe, of 207 Second Ave., Mechanicville, to plead guilty in June 1984 to harassment, a violation.

O'Keefe had been charged by Mechanicville police with two counts of second-degree sexual abuse, a misdemeanor, in connection with an incident involving Taylor's relative.

In addition to O'Keefe and Judge Pickett, defendants in the suit include county District Attorney David A. Wait, Assistant District Attorney Robert Wilhelm, the district attorney's office, Mechanicville Police Department, Police Chief John J. Wallace and four identified and two unidentified officers.

Judge Pickett is represented by the state Attorney General's office, and the city and county have hired outside law firms to

represent them. Attorneys for the defendants could not be reached for comment Friday.

Talanker said most questions from the judges involved two issues — whether Taylor has legal standing to sue and whether Judge Pickett's actions would lift his judicial immunity from civil liability.

In particular, Taylor's suit alleges that Judge Pickett was not serving on the bench at the time of O'Keefe's arraignment. He then allegedly called the court to have the next court date scheduled when he was on the bench, said Talanker.

The suit claims that Judge Pickett allowed a guilty plea to a lesser charge because he and O'Keefe are friends.

Talanker said the judges Thursday also discussed a section of state executive law signed in 1984 that requires law enforcement officials, such as district attorneys, to discuss prosecution of cases with victims involved.

Suit sparked firing, former worker says

FRONT PAGE APRIL 8, 1985

By JON SORENSEN
Times Record Capitol Bureau

ALBANY — A former budget analyst in the state Assembly claims she was fired by Republican leaders last January after she filed a sex and age discrimination lawsuit against them.

In a complaint to the federal Equal Employment Opportunity Commission (EEOC), Rima Bostick says her firing came one day after she filed the lawsuit in U.S. District Court.

Judge Roger Miner reserved decision Friday on a request by Assembly Republican leader Clarence Rappleyea, five members of his staff and others to dismiss the suit. Miner and Bostick are also Republicans.

When the job of Director of Budget Studies went to a younger, male staffer last spring, the 53-year-old Kinderhook woman filed a complaint with the state Division of Human Rights and the EEOC, claiming she was not considered for the job despite greater experience.

It was an example of a "systematic pattern ... and poli-

cy that favors young males compared to females, particularly older females," she said in a court affidavit. Bostick also claims her pay lagged behind other employees of the Ways and Means Committee — \$13,000 in all during her 10 years with the committee.

Starting in 1975 with an annual salary of \$27,500, Bostick was earning \$48,500 when she was dismissed Jan. 9. She would have earned \$59,300 had she received the average increase earned by male employees, she claims in court papers.

Both the state and federal rights commissions dismissed her claims last year but Bostick and her attorney, Michael Feit, say neither group investigated the case nor conducted complete hearings.

Those decisions followed a mediator's failure to resolve the controversy last spring. Mediator Warren Benia found Bostick's claims "legitimate and non-frivolous," but his suggestions were rejected by the Republican leadership.

Continued on Page 2

TOP OF THE NEWS

The Times Record,
Monday, April 8, 1985

Woman: Lawsuit led to firing

Continued from Page 1

Bostick is seeking \$500,000 in punitive damages and the job she would have received had she not been discriminated against, presumably the budget position. Feit said she has been out of work since January.

Represented by an assistant attorney general, the defense claims the Legislature is protected against civil rights lawsuits. In an affidavit, Rappleyea's counsel, Richard

Jacques, compared Bostick's employment to "a judge and his law clerk."

"Notwithstanding the gender ascription, which suggests that all judges are male," replied Feit, "it should be pointed out that even judges are not immune from the scope of civil rights cases."

After filing civil rights complaints last year, Bostick claims she was harassed by her employers. Her desk draw-

ers were rifled, papers thrown on the floor, work assignments altered without reason, her work criticized unfairly and she was denied or detained in receiving information readily available to other budget analysts.

In interviews, Republican staffers said Bostick's personality — not her sex or age — kept her from winning the promotion. Feit said that is a typical charge in discrimination cases.

TRAY TIMES RECORD - April 9, 1985

Court upholds sex abuse case lawsuit dismissal

By DEAN BETZ
Staff Reporter

MECHANICVILLE — The dismissal of a \$5 million suit against Mechanicville and Saratoga County was upheld Monday by a federal appeals court.

The Second Circuit U.S. District Court in New York City made the ruling without comment. Arguments were heard before a three-judge panel Thursday.

Sharon Taylor, of John S. Moore Homes, Mechanicville, charged in the suit — dismissed without a trial in October 1984 by Albany U.S. District Court Judge Roger J. Miner — that city and county officials conspired to prevent proper prosecution of a sex abuse case involving a female relative, who was 12 years old at the time.

She claimed the alleged conspiracy violated the civil rights of herself and the girl. Taylor

claimed City Court Judge Vincent P. Pickett improperly handled the case by allowing Robert O'Keefe, of 207 Second Ave., Mechanicville, to plead guilty last June to harassment, a violation.

O'Keefe had been charged with second-degree sexual abuse, a misdemeanor, in connection with an incident involving the girl.

In addition to O'Keefe and Judge Pickett, defendants included County District Attorney David A. Wait, Assistant District Attorney Robert Wilhelm, Wait's office, the Mechanicville Police Department, Police Chief John J. Wallace and four identified and two unidentified officers.

"From an attorney's standpoint, (lack of court comment) indicates that the judges accept the lower court's decision as its basis," City Attorney Joseph W. Sheehan said at a press conference Monday.

In his October 1984 ruling, Albany U.S. District Court

Judge Roger J. Miner said Taylor did not have legal standing to sue in the case, because it involved the prosecution of another person.

Albany attorney Alyssa Talanker, who represented Taylor, said no decision has been made to appeal the ruling to the U.S. Supreme Court.

She said Taylor's complaints involving the abuse case's prosecution have not yet been addressed. "First we went to the officials, then we went to the courts. Where's a citizen supposed to go?"

Also, she feels two issues — whether a state law requiring district attorneys to discuss a case's prosecution with the victim applied and whether a close relative of a minor has the legal standing to sue in such a case — warrant Supreme Court attention.

The decision whether to continue the suit will come after examination of formal court papers, expected in two to three days.



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APR 16 1985

April 11, 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

The Honorable Rogert J. Miner
United States District Judge
Northern District of New York
Post Office Box 868
Albany, NY 12201

Dear Judge Miner:

We at the Danforth Foundation hope this communication finds you well. Enclosed, for your information, is our most recent brochure describing the Danforth Foundation Seminars for Federal Judges and Educators: Education and the Courts. Including this year's participants, over 180 federal judges have now experienced the program.

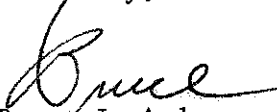
We continue to invite experienced educators, administrators, knowledgeable school board members, and legal experts conversant with the most salient topics and issues. Recent topics discussed at Seminars 13 and 14 have included school desegregation, education of the handicapped, first amendment rights and the termination of school employees, and competency testing of teachers and students.

The Honorable Robert M. Duncan, United States District Judge, Southern District of Ohio, continues to serve as the moderator of our fall seminar. The Honorable John T. Curtin, Chief Judge, Western District of New York, moderated the spring sessions in 1984 and 1985. We at the Danforth Foundation are indebted to both of them for their interest and service in this activity.

I would be pleased to receive any suggestions or ideas you might have relative to Education and the Courts. Likewise, if you know of colleagues who would profit by attending, please feel free to nominate them in a letter to me.

Do take care. We at the Danforth Foundation wish you well in your important work.

Sincerely,


Bruce J. Anderson
Vice President

BJA/lrm
encl.

Best to you + your wife!

Middleburgh farmer faces child-porn, firearms counts

By Shirley Armstrong

Staff writer

T.U. 4-13-85

Schoharie County farmer Charles Reinhart, whom authorities alleged had more than 1,000 pieces of child pornography and numerous firearms in his Middleburgh home when it was searched in March, was indicted by a federal grand jury in Albany Friday on two counts.

Reinhart, 41, is accused of importation of child pornography and illegal possession of an Uzi semiautomatic submachine gun.

He will be arraigned on April 19 before Judge Roger J. Miner. If convicted of both charges, he could face a maximum of 20 years in prison on each of the two charges and fines of \$100,000 on the pornography count and \$10,000 on the firearms count.

Reinhart was arrested at his farm March 29 by federal agents and State Police, who had obtained a search warrant from U.S. Magistrate Ralph

W. Smith Jr. the day before.

Officials said they seized several hundred child pornography magazines and hundreds of child pornography movies and photographs. They said a number of rifles, knives and smoke grenades and more than 5,000 rounds of ammunition also were found.

The U.S. attorney's office said U.S. Customs inspectors at Kennedy Airport seized two packages containing sexually explicit material which was being mailed from Holland and was addressed to Reinhart. Authorities said the U.S. Postal Service then delivered the packages to the farmhouse which Reinhart shares with his mother, and the search warrant was obtained.

U.S. Postal Inspector Thomas Walmsley said Reinhart is a "survivalist" who apparently had collected weapons for use in event of a nuclear attack. He said permits were not required for any of the weapons except the submachine gun.

KVICKER BOCKER NEWS Environmentalists join court case

APRIL 13, 1985

Concerned that the state may bend to demands by pilots and disabled sportsmen who are suing to regain the right to fly to remote Adirondack lakes on hunting and fishing trips, the Sierra Club and four other environmental groups have joined the federal court case.

U.S. District Judge Roger Miner granted intervenor status Friday to the Sierra Club, the Adirondack Council, the Wilderness Society, American Wilderness Alliance and the High Peaks Audubon Society.

"We are more likely to protect the environment and recreational interests than the state," said Howard Fox, a staff attorney for the Washington-

based Sierra Club Legal Defense Fund.

Fox told Miner that the groups have had to sue the state numerous times when it believed environmental laws were being broken.

State Assistant Attorney General Lawrence Rappoport, who represented the state Department of Environmental Conservation, told Miner the state took no position on the action of the private groups to join the case. Outside the courtroom, he said this is the latest challenge of motorized entry to wilderness areas since restrictions started in 1973.

Earlier in the Albany courtroom, Albany Law School professor Francis X. Wallace, who represents four float-

plane pilots and a dozen disabled sportsmen, opposed the environmental groups' entrance into the case.

He said his clients are challenging a state determination and contended the environmental groups had failed to show why the state could not adequately defend the case.

The disabled sportsmen, including four veterans, contend the state is discriminating against them by denying access to public lands around the lakes.

The state has banned floatplane use at more than 700 bodies of water and wilderness areas in the Adirondacks, including 28 of the 40 most-used landing sites.

Reporter finds ex-aide sought in tax-fraud suit

By Shirley Armstrong

Staff writer

Possible dismissal of an action to recover allegedly fraudulent income-tax refunds from a former aide to Gov. Mario Cuomo was put on hold in U.S. District Court Friday, after it was learned a newspaper reporter had located the man the government had been unable to track down.

William J. Cabin, 39, who once served as executive director in the office of then-Lt. Gov. Cuomo and was later accused of embezzlement, is accused in a civil action of receiving \$2,522 in refunds from the Internal Revenue Service by filing six tax returns for the years 1979 and 1980 in the names of three persons falsely identified as state employees.

No criminal charges are involved.

Since papers had not been served upon Cabin within the required 120 days, Judge Roger Miner ordered the U.S. Attorney's office to offer reasons why the action should not be dismissed.

Assistant U.S. Attorney Bernard J. Malone told Miner that authorities had checked out four addresses in New York, Albany and Syracuse and had

turned up a residential address in Washington, D.C. He said papers had been forwarded to the U.S. marshal there on Feb. 27, and further action was still awaited.

However, said Malone, he had just been advised by John Runfola of *The Knickerbocker News* that a 1983 report in the newspaper archives listed Cabin's workplace as the National Association of Home Care in Washington. He said Runfola told him he had called the association Friday morning and learned Cabin is still employed there.

Miner, smilingly commenting upon efforts of "the Fourth Estate to help you locate people," said he would dismiss the civil action unless Cabin has been served within 30 days.

Cabin, who was later reached by *The Times Union* at his Washington office, said he has been director of regulatory affairs for the trade association of visiting nurse groups and Medicare certified providers since 1983.

"I don't know anything about it," he said of the federal action. He referred the reporter to his attorney, Stephen Herrick of Albany.

Herrick said he and Cabin have been



WILLIAM J. CABIN

worked for Cuomo

engaged in "ongoing negotiations with IRS" on a repayment plan for back taxes, but "this is something we were totally unaware of."

"No one has been trying to evade service," Herrick said.

Cabin left Cuomo's office in late 1981 and was indicted for stealing \$178,000 by placing five phantom employees on the lieutenant governor's payroll.

He pleaded guilty in Albany County Court to grand larceny, forgery and offering a false instrument for filing. He was sentenced to 1 to 7 years and served one year, most of it in a minimum-security facility in Manhat-

GOV ON WARPATH OVER HATCHET JOB

GOV. CUOMO is furious at the Washington Post for a highly unflattering "hatchet job" profile that appeared the day he visited the nation's capital last week.

He's so upset that he's challenging the newspaper to give him an in-person chance to respond.

"I wish the Washington Post would do this," said Cuomo.

"I wish they would call up and say, 'Governor, we made some heavy charges here. Why don't you come to an editorial board meeting and defend yourself?'"

"Boy, would I love to do that."

The article in question says that while Cuomo may be a great talker, he's not so hot at running the government of New York.

Cuomo accuses the author of the article, New York City-based Margot Hornblower, of showing a strong bias against him.

"People she talked to called me up and said, 'She's doing a negative piece.'"

"Reporters she talked to said the same thing to me," the governor says.

"I would prefer that she did an objective piece."

Cuomo also accuses the reporter of refusing to check out information that would have coun-



INSIDE ALBANY

By Fredric Dickert

tered her negative conclusions.

He says: "I asked her if she would speak to Peter Smith (a housing expert). She said, 'No, I've finished my research.'"

"I said, 'What do you mean you finished your research? You just called me up, right?'"

The article also uses several "blind quotes" from unidentified sources to accuse Cuomo of, among other things, being a "vindictive . . . liberal Nixon," complete with an "enemies list."

"That is what Joe McCarthy did," says a genuinely upset Cuomo. "Hearsay evidence and unnamed sources."

Says Cuomo press secretary Martin Steadman, an experienced journalist in his own right: "It was a total, complete, hatchet job."

Hornblower, whose analysis of Cuomo seems to many here to be about 12 months out of date, strongly stood by her story yesterday.

"I believe it was an entirely fair piece. I always try to be fair," she said.

Two footnotes on the flap:

● Top Cuomo aides see the



WILLIAM Cabin, the man who stole more than \$178,000 from the state by padding (then-Lt. Gov.) Cuomo's payroll with non-existent workers four years ago, is in trouble with the law again.

The Internal Revenue Service says that Cabin, who served one year of a 1 to 7-year state prison sentence, owes the government more than \$14,000 in improperly obtained refunds and penalties.

Cabin's Albany lawyer insists his client will pay up.

U.S. District Court Judge Roger Miner almost threw out the tax charge last week when the IRS said it couldn't locate Cabin to serve him with legal papers.

But then a reporter for the Albany Knickerbocker News, using an investigative technique apparently foreign to the IRS, checked his paper's library of old clippings.

The reporter found that Cabin was working at the National Assn. of Home Care in Washington.

WALTER M. JEFFORDS, JR.
DISTINGUISHED VISITING LECTURESHIP
Honoring the Memory of Judge Charles W. Froessel '13

The Jeffords Lecture

New York Law School is proud of the loyalty and support of its alumni, faculty, and its trustees. In 1975, Walter M. Jeffords, Jr. established the Walter M. Jeffords, Jr. Distinguished Visiting Lectureship in honor of Charles W. Froessel of the Class of 1913, a former Judge of the New York State Court of Appeals and former Dean of New York Law School, who was also a trustee of the School.

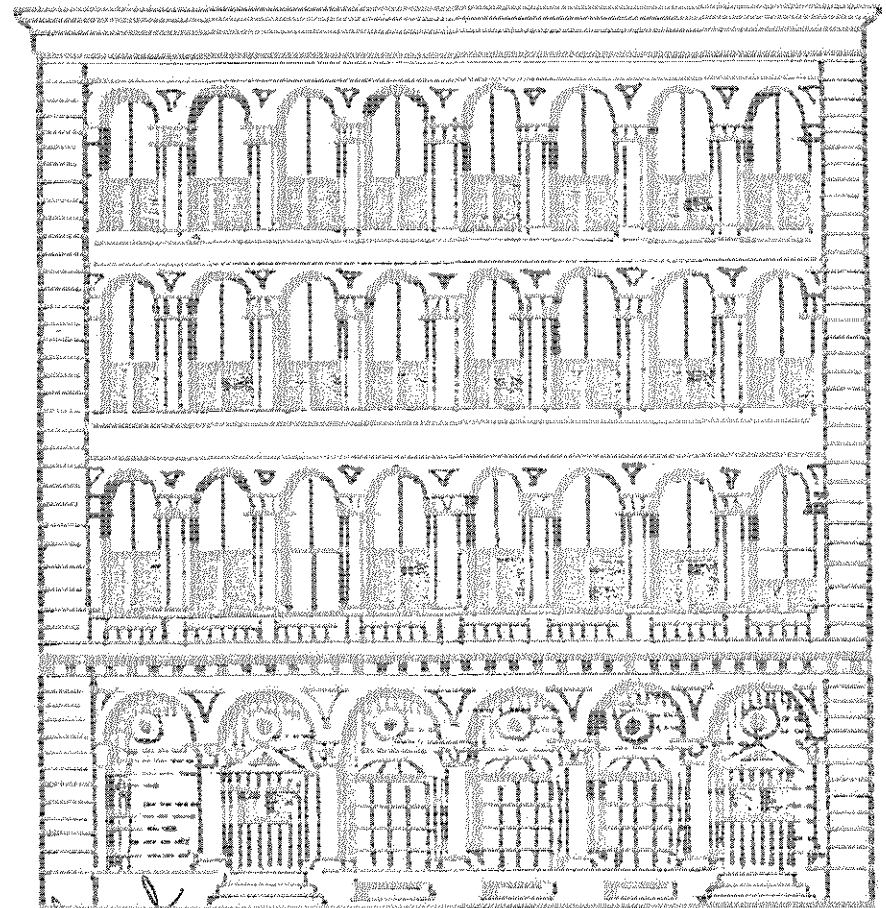
The Jeffords Lectures represent the continued academic growth and development of the Law School. Through the generosity of Mr. Jeffords, distinguished international scholars, statesmen and jurists are invited to address the New York Law School community, as well as interested members of the profession and the public.

New York Law School

Since its founding in 1891, New York Law School has developed an academic program which gives highly-motivated students a thorough and systematic knowledge of law, develops their comprehension of and ability to apply legal principles, and prepares them for successful careers in the legal profession. As one of the nation's prominent law schools, New York Law School emphasizes those areas of law which specifically deal with urban issues.

New York Law School is the only law school located in lower Manhattan and is situated near City Hall, the Federal, State and City courts and most administrative agencies. This unique location provides the students, now approximately 1,200 in number, with an excellent opportunity to personally observe the law in action while also learning the theoretical aspects of law in the classroom.

ROBERT B. McKAY
President, Association of the Bar of the City of New York



*RJ M
Attended*

4:30 P.M.
April 17, 1985
New York Law School
57 Worth Street
New York, New York



ROBERT B. McKAY

President, Association of the Bar of the City of New York

ROBERT B. McKAY

According to this year's Jeffords Lecturer, Robert B. McKay, "The law is a powerful instrument which can be used for good in a great many more cases than it is now." As a result of his involvements and efforts, says long time friend, Whitney North Seymour, Jr., "[Bob McKay] has developed a network for the public good."

As the 52nd president of the Association of the Bar of the City of New York, Robert McKay, formerly Dean of New York University Law School (1967-75) and president of the Legal Aid Society of New York (1975-77), is now at the heart of the City's legal community, bringing to the presidency an unusual marriage of intellectuality and activism.

Prior to returning to a tenured position as Professor of Law at New York University last year, Dean McKay was Director of the Aspen Institute Program on Justice, Society and the Individual; Director of the Institute of Judicial Administration, an independent research body, from 1980-83; chairman of the New York State Special Commission on Attica; and chairman of the New York State Board of Correction from 1973-74. He is currently president of the Citizens Union Research Foundation and chairman of the Advisory Committee on Ethical Standards of the Attorney General of the State of New York.

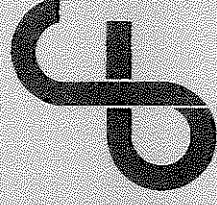
Based on a foundation of study in constitutional law and inspired by broad community interest and high minded humanism, his ideals and pragmatic approach have allowed him a special role as chairman of the ABA Section of Legal Education and Admissions to the Bar; chairman of the ABA/Association of American Law Schools Clinical Guidelines Committee; member of the Kutak Commission which developed the ABA's Model Rules of Professional Conduct; and secretary, Council on Law Related Studies.

The recurring theme in Dean McKay's scholarship and involvement is a powerful concern for fairness and justice. From this position, he will in the 1985 Jeffords Lecture confront the significance of today's demographics in professional education and in the legal field, holding that the law must continue to attract the best students and the most intelligent.

* * * * *

The Law School is proud to share the Jeffords Lecture with you and welcomes you to hear this year's lecture to be given in the Charles W. Froessel Reading Room at 57 Worth Street. The ceremonies will begin at 4:30 p.m. on Wednesday, April 17th. A reception will follow.

**THE DANFORTH SEMINARS
FOR FEDERAL JUDGES
AND EDUCATORS:
EDUCATION AND
THE COURTS**



THE DANFORTH FOUNDATION, established in 1927, is a national, educational, philanthropic organization, dedicated to enhancing the humane dimensions of life. Activities of the Foundation traditionally have emphasized the theme of improving the quality of teaching and learning.

Currently, the Danforth Foundation serves the following areas: higher education primarily through sponsorship of programs administered by the Staff, precollegiate education through grant-making and program activities, and urban education in metropolitan St. Louis through grant-making and program activities.

Mr. and Mrs. William H. Danforth, who established the Foundation, along with their daughter and son, Dorothy Danforth Compton and Donald Danforth, maintained active leadership roles in the affairs of the Foundation throughout their lifetimes. Family members continue to be involved in Foundation activities through participation on the Board of Trustees.

THE DANFORTH SEMINARS FOR FEDERAL JUDGES AND EDUCATORS

The history of education has been greatly influenced by important court decisions. For example, the United States has experienced a quarter century of heavy judicial involvement in school desegregation. Issues such as school discipline, education for the handicapped, educational malpractice, bilingual education, competency testing of students and teachers, and equitable distribution of public funds for public education also are becoming major problems -- and society increasingly is assigning these problems to the federal courts.

Often the courts transcend adjudication, and for a variety of reasons, initiate policy and oversee implementation of plans in the education arena. With increasing frequency, courts assume responsibility for monitoring, dispute resolution, and enforcement, placing judges in the forefront of important educational policy and practice.

Since 1977 the Danforth Foundation has sponsored and administered two seminars each year, allowing federal judges and educators the opportunity to converse and learn from each other. More than 150 judges have attended the Danforth Seminars.

PURPOSE OF THE SEMINARS

The seminars focus on important issues facing public education which are involved with the federal courts. Each seminar is designed to assist federal judges better understand how schools are organized and administered, in order that their judicial rulings might be more feasibly carried out by school officials.

SEMINAR ACTIVITIES

With the assistance of selected educators, lawyers, deans of law schools, and federal judges who have previous experience with school desegregation and other school matters, the seminars employ actual case studies. In addition, selected school superintendents, principals, and other educators serve as consultants in the formal and informal discussions which take place. The relationship between the courts and the schools is explored at length and involves a high level of participation centering around discussion of historical background, landmark cases, resource allocations to carry out mandates, and related problems and issues. Typically, the judges in attendance gain awareness of, and sensitivity to, the effects of judicial rulings on school systems and school personnel charged with carrying out court orders.

All seminar sessions are free of transcription and unrecorded. Participants are encouraged to ask questions, share experiences, and avail themselves of the opportunity to converse with their colleagues from around the country as well as the educators and other resource persons in attendance.

**The Danforth Foundation
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EDUCATION AND THE COURTS**

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KN 4-12-85

Ex-Cuomo office aide still faces IRS charges

By JOHN RUNFOLA

Knickerbocker News Reporter

More than three years after he admitted stealing \$178,000 by placing non-existent employees on then Lt. Gov. Mario Cuomo's staff, William Cabin still faces Internal Revenue Service charges in connection with the scam.

But those 1983 civil charges — which seek more than \$14,000 in refunds and penalties — may be dismissed today by U.S. District Judge Roger Miner because the federal government has been unable to locate Cabin.

"We haven't been able to locate him to serve papers in the case. We think he is in Washington, D.C.," said Bernard J. Malone Jr., the assistant U.S. attorney who is prosecuting the case. The government must appear before Miner and argue why the case should not be dismissed.

In an attempt to clear clogged court calendars, Miner traditionally asks the government why it has failed to proceed in situations such as the Cabin case, he said.

U.S. marshals have been unable to locate Cabin despite repeated attempts to do so since IRS charges were filed against him in October 1983.

However, *The Knickerbocker*



Cabin

News today called Cabin's last known employer, the National Association for Home Health Care, and was told by a secretary that Cabin still works there.

She said Cabin was taking another phone call and could not speak to a reporter. She said no spokesman for the association was available.

Cabin is being sued by the IRS because he filed federal income tax returns seeking refunds for three of the five fake state employees in 1979 and 1980.

Using the names Carmen Arvelo, Andrew Kingsley and John Kingsley, Cabin received federal tax refund checks totaling \$2,522, according to a complaint on file at U.S. District Court in Albany.

The government is asking for double damages totaling \$5,044 for the refunds plus an additional \$12,000 penalty for filing the false claims.

Cabin was sentenced on criminal charges in Albany County Court to 1-7 years in state prison in 1981 after he pleaded guilty to second-degree grand larceny and second-degree forgery. While executive director of then Lieutenant Governor Cuomo's office, Cabin admitted placing five fictitious employees on the state payroll. He then used the money to buy a number of town houses in downtown Albany.

The state seized the town houses and sold them to recover money Cabin stole.

Paroled after serving one year in state prison, Cabin declared bankruptcy in 1983.

City of Hudson Bicentennial Committee

P. O. Box Bicentennial 1985

Hudson, New York 12534



April 19, 1985

Roger Miner
Tom Thumb Estates
Hudson, NY 12534

Dear Judge Miner:

We are excited about a very special event taking place in Hudson, New York, on Saturday, May 4, 1985 at 2 p.m. The City of Hudson is having a 200th birthday and the Bicentennial Committee is staging a reenactment of the arrival of the city's charter in 1785.

We have commissioned the 33-foot ketch "Old Friend" to travel up the Hudson River to deliver the charter by messenger. The ketch will be coming into port under full sail at the city's waterfront. The messenger and other dignitaries will be greeted by the Kinderhook Militia Fife and Drum, who will accompany the party aboard the City of Hudson Bicentennial Mystery Float up Warren Street to city hall, where the charter will be delivered to Mayor Michael Yusko, Jr. A champagne reception will follow the presentation.

We feel that Hudson's 200th birthday is an important occasion and are proud to say Hudson is the first chartered city in the United States after the signing of the Declaration of Independence. We hope you will come and join with us in celebrating this momentous occasion. Please R.S.V.P. as soon as possible.

We are looking forward to seeing you at city hall on May 4.

Sincerely,

Helen Sacco
Member, Hudson Bicentennial Committee

Aloysius Curran
Chairman, Hudson Bicentennial Committee

Please R.S.V.P. (518) 828-4417

Roger J. Miner
U.S. District Judge
Northern District of New York

New York Law School Law Review
Annual Dinner
April 24, 1985
Coho Restaurant
New York City

In his Foreword to Volume I, No. 1, our beloved Charles W. Froessel wrote the following:

With this publication, the Trustees of New York Law School are pleased to announce the beginning of a new legal publication --the New York Law Forum-- designed not only to serve as an aid in the education and training of law students, but also as an aid to the members of the legal profession in the State of New York and in the nation. The Forum will review significant legal developments, with emphasis on New York and Federal law. We are hopeful that this publication will lead to new and worthwhile research in the law, which will be helpful to the bench and bar.

In the thirty years that have passed since that Foreword was written, the expectations of Judge Froessel have been fulfilled and surpassed. During the last three decades, our Journal not only has reviewed significant legal developments; it has originated new ideas and concepts. Not only has it been helpful to the bench and bar; it has become an essential tool of the profession. And not only has it served the legal community of

the state and nation; it has served the international legal community as well.

Our beginnings were modest indeed. The small basement office at 244 William Street, where Issue No. 1 was born, was much different from the spacious office I visited last week. And Volume I, which I was happy to see standing on a shelf in that office, is different from Volume XXX in many ways. Certainly, the format was different. The Notes and Comments were much shorter, there were separate sections for the review of decisions and legislation, and all student contributions were unsigned. Substantively, the student pieces did not display anywhere near the critical approach to subject matter or the personal viewpoints found in our modern law review.

But there are more similarities than differences between Volume I and Volume XXX. The problems faced by the Editors, I am sure, are the same. I well remember my first editing job. The item involved a discussion of a 1954 Illinois decision holding that the artificial insemination of a wife through a man other than her husband constituted adultery. It began: "Artificial insemination has only lately come into the public eye." I was, of course, constrained to re-write that opening line. The lead Article in Issue 1 was written by that great lion of American jurisprudence, Dean Roscoe Pound, and was entitled: "The Judicial Process in Action." Our Editors struggled with the

organization and footnoting of that Article just as today's Editors contend with the Articles of the great modern scholars. Incidentally, Issue No. 1 included a book review of the 1955 edition of "Newman on Trusts" by a young Associate Professor named Milton Silverman. I hope that he has since acquired a more current edition.

To me, however, the most striking similarity between the first and thirtieth volumes lies in the identity of the general topics addressed. There have been, without doubt, momentous changes in the law, the legal system and the profession during the past thirty years. But a browse through Volume I brings the startling revelation that many of the topics covered are still timely enough, interesting enough, and important enough to be worthy of current examination.

Over the years, many outstanding people have held responsibility for the production of our Journal. The development and success of the Law Review are attributable to shared experiences. The contributions of all who have served have led to the creation of a prestigious publication reflecting great credit upon alma mater. Indeed, the reputation of the law school and the reputation of the law review have moved upward on a parallel path. During three decades, the editors of the New York Law School Law Review have demonstrated a persistent commitment to the highest standards of scholarship and to the

establishment of a forum for the presentation of divergent views. I salute you, my law review colleagues, for your vision and your labors and for the success of our enterprise. I congratulate each and every one of you for the part you have played in reaching this important milestone in our history.

On behalf of the Law Review Alumni, I say this to the present Editors: You have our love, respect, devotion, encouragement, support and maybe an article from time to time. But always remember that you bear the heavy burden of tradition and that we are all present in spirit, looking over your shoulders, as you carry forward the work we have passed to your hands. Remember, too, that our publication has been dedicated since its inception to those who have served our School -- the great teachers and loyal alumni, the latter exemplified by John Marshall Harlan, appointed to the Supreme Court just before the appearance of our first issue. And lastly, be aware that, in the final analysis, the pursuit of excellence is our only real legacy to you and your only unbreakable promise to us.

For Judge Miner JEF

Ruling awaited in Mechanicville conspiracy suit against officials

TRIO TIMES RECORD
APRIL 16, 1985
By DEAN BETZ
Staff Reporter

MECHANICVILLE — Attorneys for Mechanicville, Saratoga County, the state and a woman suing for \$5 million are awaiting a ruling from the Second Circuit U.S. Court of Appeals in New York City.

Arguments in the appeal of the suit — which charges that city and county officials conspired to prevent proper prosecution of a sex abuse case and City Court Judge Vincent P. Pickett acted improperly in handling the case — were heard Thursday by the three-judge panel.

Albany attorney Alyssa Talanker said the judges reserved judgment.

Talanker represents Sharon Taylor, of John Moore Homes, Mechanicville, who claims that the alleged conspiracy violated her civil rights and those of a female relative who was 12-years-old when she was the victim of the alleged abuse.

Taylor is appealing the October 1984 ruling of Albany

U.S. District Court Judge Roger J. Miner, who dismissed the suit without a trial.

Court papers claim that Judge Pickett improperly handled the case when he allowed Robert O'Keefe, of 207 Second Ave., Mechanicville, to plead guilty in June 1984 to harassment, a violation.

O'Keefe had been charged by Mechanicville police with two counts of second-degree sexual abuse, a misdemeanor, in connection with an incident involving Taylor's relative.

In addition to O'Keefe and Judge Pickett, defendants in the suit include county District Attorney David A. Wait, Assistant District Attorney Robert Wilhelm, the district attorney's office, Mechanicville Police Department, Police Chief John J. Wallace and four identified and two unidentified officers.

Judge Pickett is represented by the state Attorney General's office, and the city and county have hired outside law firms to

represent them. Attorneys for the defendants could not be reached for comment Friday.

Talanker said most questions from the judges involved two issues — whether Taylor has legal standing to sue and whether Judge Pickett's actions would lift his judicial immunity from civil liability.

In particular, Taylor's suit alleges that Judge Pickett was not serving on the bench at the time of O'Keefe's arraignment. He then allegedly called the court to have the next court date scheduled when he was on the bench, said Talanker.

The suit claims that Judge Pickett allowed a guilty plea to a lesser charge because he and O'Keefe are friends.

Talanker said the judges Thursday also discussed a section of state executive law signed in 1984 that requires law enforcement officials, such as district attorneys, to discuss prosecution of cases with victims involved.

Suit sparked firing, former worker says

FRONT PAGE APRIL 8, 1985

By JON SORENSEN
The Times Record Capitol Bureau

ALBANY — A former budget analyst in the state Assembly claims she was fired by Republican leaders last January after she filed a sex and age discrimination lawsuit against them.

In a complaint to the federal Equal Employment Opportunity Commission (EEOC), Rima Bostick says her firing came one day after she filed the lawsuit in U.S. District Court.

Judge Roger Miner reserved decision Friday on a request by Assembly Republican leader Clarence Rappleyea, five members of his staff and others to dismiss the suit. Miner and Bostick are also Republicans.

When the job of Director of Budget Studies went to a younger, male staffer last spring, the 53-year-old Kinderhook woman filed a complaint with the state Division of Human Rights and the EEOC, claiming she was not considered for the job despite greater experience.

It was an example of a "systematic pattern ... and poli-

cy that favors young males compared to females, particularly older females," she said in a court affidavit. Bostick also claims her pay lagged behind other employees of the Ways and Means Committee — \$13,000 in all during her 10 years with the committee.

Starting in 1975 with an annual salary of \$27,500, Bostick was earning \$48,500 when she was dismissed Jan. 9. She would have earned \$59,300 had she received the average increase earned by male employees, she claims in court papers.

Both the state and federal rights commissions dismissed her claims last year but Bostick and her attorney, Michael Feit, say neither group investigated the case nor conducted complete hearings.

Those decisions followed a mediator's failure to resolve the controversy last spring. Mediator Warren Benia found Bostick's claims "legitimate and non-frivolous," but his suggestions were rejected by the Republican leadership.

Continued on Page 2

TOP OF THE NEWS

The Times Record,
Monday, April 8, 1985

Woman: Lawsuit led to firing

Continued from Page 1

Bostick is seeking \$500,000 in punitive damages and the job she would have received had she not been discriminated against, presumably the budget position. Feit said she has been out of work since January.

Represented by an assistant attorney general, the defense claims the Legislature is protected against civil rights lawsuits. In an affidavit, Rappleyea's counsel, Richard

Jacques, compared Bostick's employment to "a judge and his law clerk."

"Notwithstanding the gender ascription, which suggests that all judges are male," replied Feit, "it should be pointed out that even judges are not immune from the scope of civil rights cases."

After filing civil rights complaints last year, Bostick claims she was harassed by her employers. Her desk draw-

ers were rifled, papers thrown on the floor, work assignments altered without reason, her work criticized unfairly and she was denied or detained in receiving information readily available to other budget analysts.

In interviews, Republican staffers said Bostick's personality — not her sex or age — kept her from winning the promotion. Feit said that is a typical charge in discrimination cases.

TROY TIMES RECORD - April 9, 1985

Court upholds sex abuse case lawsuit dismissal

By DEAN BETZ
Staff Reporter

MECHANICVILLE — The dismissal of a \$5 million suit against Mechanicville and Saratoga County was upheld Monday by a federal appeals court.

The Second Circuit U.S. District Court in New York City made the ruling without comment. Arguments were heard before a three-judge panel Thursday.

Sharon Taylor, of John S. Moore Homes, Mechanicville, charged in the suit — dismissed without a trial in October 1984 by Albany U.S. District Court Judge Roger J. Miner — that city and county officials conspired to prevent proper prosecution of a sex abuse case involving a female relative, who was 12 years old at the time.

She claimed the alleged conspiracy violated the civil rights of herself and the girl. Taylor

claimed City Court Judge Vincent P. Pickett improperly handled the case by allowing Robert O'Keefe, of 207 Second Ave., Mechanicville, to plead guilty last June to harassment, a violation.

O'Keefe had been charged with second-degree sexual abuse, a misdemeanor, in connection with an incident involving the girl.

In addition to O'Keefe and Judge Pickett, defendants included County District Attorney David A. Wait, Assistant District Attorney Robert Wilhelm, Wait's office, the Mechanicville Police Department, Police Chief John J. Wallace and four identified and two unidentified officers.

"From an attorney's standpoint, (lack of court comment) indicates that the judges accept the lower court's decision as its basis," City Attorney Joseph W. Sheehan said at a press conference Monday.

In his October 1984 ruling, Albany U.S. District Court

Judge Roger J. Miner said Taylor did not have legal standing to sue in the case, because it involved the prosecution of another person.

Albany attorney Alyssa Talanker, who represented Taylor, said no decision has been made to appeal the ruling to the U.S. Supreme Court.

She said Taylor's complaints involving the abuse case's prosecution have not yet been addressed. "First we went to the officials, then we went to the courts. Where's a citizen supposed to go?"

Also, she feels two issues — whether a state law requiring district attorneys to discuss a case's prosecution with the victim applied and whether a close relative of a minor has the legal standing to sue in such a case — warrant Supreme Court attention.

The decision whether to continue the suit will come after examination of formal court papers, expected in two to three days.



RECEIVED

APR 16 1985

April 11, 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

The Honorable Rogert J. Miner
United States District Judge
Northern District of New York
Post Office Box 868
Albany, NY 12201

Dear Judge Miner:

We at the Danforth Foundation hope this communication finds you well. Enclosed, for your information, is our most recent brochure describing the Danforth Foundation Seminars for Federal Judges and Educators: Education and the Courts. Including this year's participants, over 180 federal judges have now experienced the program.

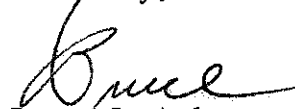
We continue to invite experienced educators, administrators, knowledgeable school board members, and legal experts conversant with the most salient topics and issues. Recent topics discussed at Seminars 13 and 14 have included school desegregation, education of the handicapped, first amendment rights and the termination of school employees, and competency testing of teachers and students.

The Honorable Robert M. Duncan, United States District Judge, Southern District of Ohio, continues to serve as the moderator of our fall seminar. The Honorable John T. Curtin, Chief Judge, Western District of New York, moderated the spring sessions in 1984 and 1985. We at the Danforth Foundation are indebted to both of them for their interest and service in this activity.

I would be pleased to receive any suggestions or ideas you might have relative to Education and the Courts. Likewise, if you know of colleagues who would profit by attending, please feel free to nominate them in a letter to me.

Do take care. We at the Danforth Foundation wish you well in your important work.

Sincerely,



Bruce J. Anderson
Vice President

BJA/lrm
encl.

Best to you + your wife!

Middleburgh farmer faces child-porn, firearms counts

By Shirley Armstrong

Staff writer

T.O. 4-13-85

Schoharie County farmer Charles Reinhart, whom authorities alleged had more than 1,000 pieces of child pornography and numerous firearms in his Middleburgh home when it was searched in March, was indicted by a federal grand jury in Albany Friday on two counts.

Reinhart, 41, is accused of importation of child pornography and illegal possession of an Uzi semiautomatic submachine gun.

He will be arraigned on April 19 before Judge Roger J. Miner. If convicted of both charges, he could face a maximum of 20 years in prison on each of the two charges and fines of \$100,000 on the pornography count and \$10,000 on the firearms count.

Reinhart was arrested at his farm March 29 by federal agents and State Police, who had obtained a search warrant from U.S. Magistrate Ralph

W. Smith Jr. the day before.

Officials said they seized several hundred child pornography magazines and hundreds of child pornography movies and photographs. They said a number of rifles, knives and smoke grenades and more than 5,000 rounds of ammunition also were found.

The U.S. attorney's office said U.S. Customs inspectors at Kennedy Airport seized two packages containing sexually explicit material which was being mailed from Holland and was addressed to Reinhart. Authorities said the U.S. Postal Service then delivered the packages to the farmhouse which Reinhart shares with his mother, and the search warrant was obtained.

U.S. Postal Inspector Thomas Walmsley said Reinhart is a "survivalist" who apparently had collected weapons for use in event of a nuclear attack. He said permits were not required for any of the weapons except the submachine gun.

ENVIRONMENTALISTS join court case

KVICKER BECKER NEWS

APRIL 13, 1985

Concerned that the state may bend to demands by pilots and disabled sportsmen who are suing to regain the right to fly to remote Adirondack lakes on hunting and fishing trips, the Sierra Club and four other environmental groups have joined the federal court case.

U.S. District Judge Roger Miner granted intervenor status Friday to the Sierra Club, the Adirondack Council, the Wilderness Society, American Wilderness Alliance and the High Peaks Audubon Society.

"We are more likely to protect the environment and recreational interests than the state," said Howard Fox, a staff attorney for the Washington-

based Sierra Club Legal Defense Fund.

Fox told Miner that the groups have had to sue the state numerous times when it believed environmental laws were being broken.

State Assistant Attorney General Lawrence Rappoport, who represented the state Department of Environmental Conservation, told Miner the state took no position on the action of the private groups to join the case. Outside the courtroom, he said this is the latest challenge of motorized entry to wilderness areas since restrictions started in 1973.

Earlier in the Albany courtroom, Albany Law School professor Francis X. Wallace, who represents four float-

plane pilots and a dozen disabled sportsmen, opposed the environmental groups' entrance into the case.

He said his clients are challenging a state determination and contended the environmental groups had failed to show why the state could not adequately defend the case.

The disabled sportsmen, including four veterans, contend the state is discriminating against them by denying access to public lands around the lakes.

The state has banned floatplane use at more than 700 bodies of water and wilderness areas in the Adirondacks, including 28 of the 40 most-used landing sites.

Reporter finds ex-aide sought in tax-fraud suit

By Shirley Armstrong

Staff writer

Possible dismissal of an action to recover allegedly fraudulent income-tax refunds from a former aide to Gov. Mario Cuomo was put on hold in U.S. District Court Friday, after it was learned a newspaper reporter had located the man the government had been unable to track down.

William J. Cabin, 39, who once served as executive director in the office of then-Lt. Gov. Cuomo and was later accused of embezzlement, is accused in a civil action of receiving \$2,522 in refunds from the Internal Revenue Service by filing six tax returns for the years 1979 and 1980 in the names of three persons falsely identified as state employees.

No criminal charges are involved.

Since papers had not been served upon Cabin within the required 120 days, Judge Roger Miner ordered the U.S. Attorney's office to offer reasons why the action should not be dismissed.

Assistant U.S. Attorney Bernard J. Malone told Miner that authorities had checked out four addresses in New York, Albany and Syracuse and had

turned up a residential address in Washington, D.C. He said papers had been forwarded to the U.S. marshal there on Feb. 27, and further action was still awaited.

However, said Malone, he had just been advised by John Runfola of *The Knickerbocker News* that a 1983 report in the newspaper archives listed Cabin's workplace as the National Association of Home Care in Washington. He said Runfola told him he had called the association Friday morning and learned Cabin is still employed there.

Miner, smilingly commenting upon efforts of "the Fourth Estate to help you locate people," said he would dismiss the civil action unless Cabin has been served within 30 days.

Cabin, who was later reached by *The Times Union* at his Washington office, said he has been director of regulatory affairs for the trade association of visiting nurse groups and Medicare certified providers since 1983.

"I don't know anything about it," he said of the federal action. He referred the reporter to his attorney, Stephen Herrick of Albany.

Herrick said he and Cabin have been



WILLIAM J. CABIN

... worked for Cuomo

engaged in "ongoing negotiations with IRS" on a repayment plan for back taxes, but "this is something we were totally unaware of."

"No one has been trying to evade service," Herrick said.

Cabin left Cuomo's office in late 1981 and was indicted for stealing \$178,000 by placing five phantom employees on the lieutenant governor's payroll.

He pleaded guilty in Albany County Court to grand larceny, forgery and offering a false instrument for filing. He was sentenced to 1 to 7 years and served one year, most of it in a minimum-security facility in Manhat-

GOV ON WARPATH OVER HATCHET JOB

GOV. CUOMO is furious at the Washington Post for a highly unflattering "hatchet job" profile that appeared the day he visited the nation's capital last week.

He's so upset that he's challenging the newspaper to give him an in-person chance to respond.

"I wish the Washington Post would do this," said Cuomo.

"I wish they would call up and say, 'Governor, we made some heavy charges here. Why don't you come to an editorial board meeting and defend yourself?'"

"Boy, would I love to do that."

The article in question says that while Cuomo may be a great talker, he's not so hot at running the government of New York.

Cuomo accuses the author of the article, New York City-based Margot Hornblower, of showing a strong bias against him.

"People she talked to called me up and said, 'She's doing a negative piece.'"

"Reporters she talked to said the same thing to me," the governor says.

"I would prefer that she did an objective piece."

Cuomo also accuses the reporter of refusing to check out information that would have coun-



INSIDE ALBANY

By Fredric Dicker

tered her negative conclusions.

He says: "I asked her if she would speak to Peter Smith (a housing expert). She said, 'No, I've finished my research.'"

"I said, 'What do you mean you finished your research? You just called me up, right?'"

The article also uses several "blind quotes" from unidentified sources to accuse Cuomo of, among other things, being a "vindictive . . . liberal Nixon," complete with an "enemies list."

"That is what Joe McCarthy did," says a genuinely upset Cuomo. "Hearsay evidence and unnamed sources."

Says Cuomo press secretary Martin Steadman, an experienced journalist in his own right: "It was a total, complete, hatchet job."

Hornblower, whose analysis of Cuomo seems to many here to be about 12 months out of date, strongly stood by her story yesterday.

"I believe it was an entirely fair piece. I always try to be fair," she said.

Two footnotes on the flap:

● Top Cuomo aides see the



WILLIAM Cabin, the man who stole more than \$178,000 from the state by padding (then-Lt. Gov.) Cuomo's payroll with non-existent workers four years ago, is in trouble with the law again.

The Internal Revenue Service says that Cabin, who served one year of a 1 to 7-year state prison sentence, owes the government more than \$14,000 in improperly obtained refunds and penalties.

Cabin's Albany lawyer insists his client will pay up.

U.S. District Court Judge Roger Miner almost threw out the tax charge last week when the IRS said it couldn't locate Cabin to serve him with legal papers.

But then a reporter for the Albany Knickerbocker News, using an investigative technique apparently foreign to the IRS, checked his paper's library of old clippings.

The reporter found that Cabin was working at the National Assn. of Home Care in Washington.

WALTER M. JEFFORDS, JR.

DISTINGUISHED VISITING LECTURESHIP

Honoring the Memory of Judge Charles W. Froessel '13

The Jeffords Lecture

New York Law School is proud of the loyalty and support of its alumni, faculty, and its trustees. In 1975, Walter M. Jeffords, Jr. established the Walter M. Jeffords, Jr. Distinguished Visiting Lectureship in honor of Charles W. Froessel of the Class of 1913, a former Judge of the New York State Court of Appeals and former Dean of New York Law School, who was also a trustee of the School.

The Jeffords Lectures represent the continued academic growth and development of the Law School. Through the generosity of Mr. Jeffords, distinguished international scholars, statesmen and jurists are invited to address the New York Law School community, as well as interested members of the profession and the public.

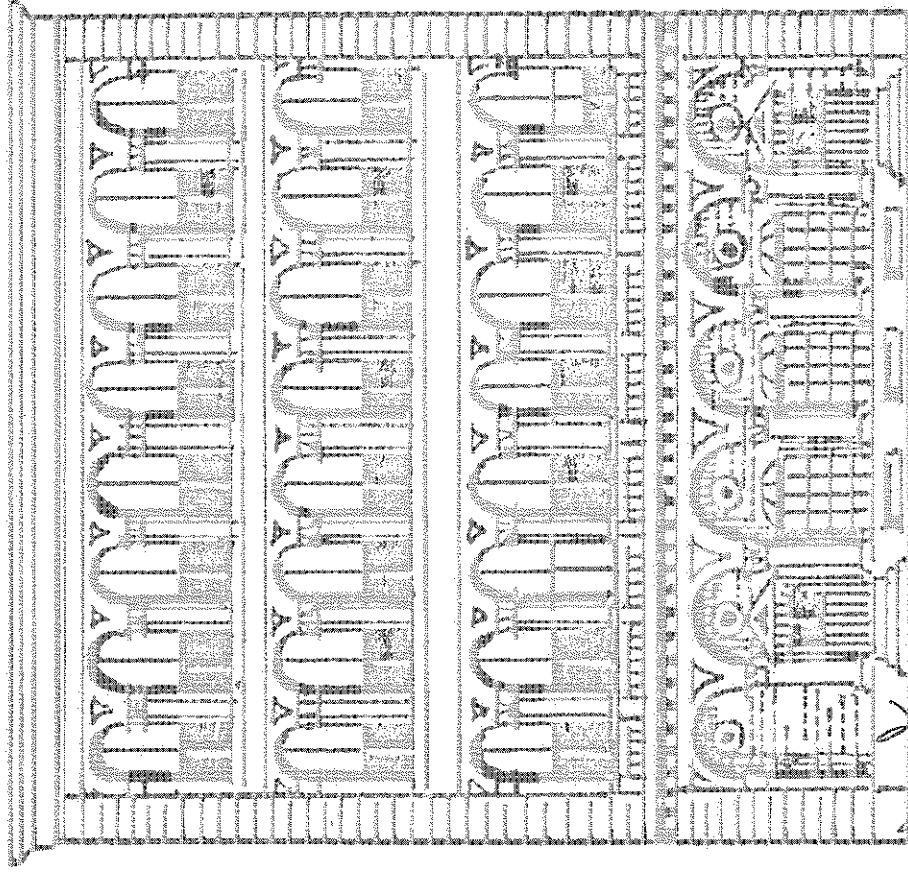
New York Law School

Since its founding in 1891, New York Law School has developed an academic program which gives highly-motivated students a thorough and systematic knowledge of law, develops their comprehension of and ability to apply legal principles, and prepares them for successful careers in the legal profession. As one of the nation's prominent law schools, New York Law School emphasizes those areas of law which specifically deal with urban issues.

New York Law School is the only law school located in lower Manhattan and is situated near City Hall, the Federal, State and City courts and most administrative agencies. This unique location provides the students, now approximately 1,200 in number, with an excellent opportunity to personally observe the law in action while also learning the theoretical aspects of law in the classroom.

ROBERT B. MCKAY

President, Association of the Bar of the City of New York



4:30 P.M.

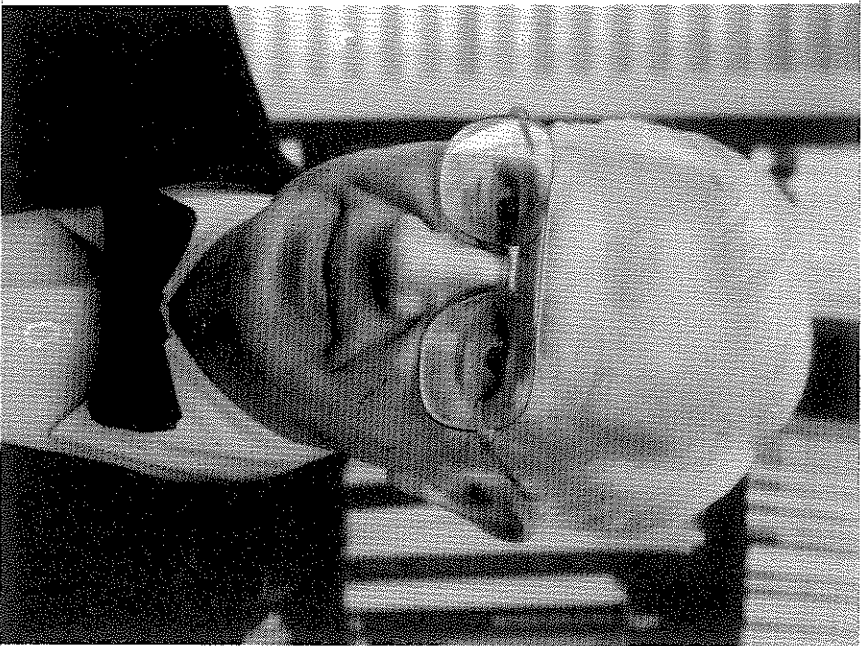
April 17, 1985

New York Law School

57 Worth Street

New York, New York

Attended



ROBERT B. MCKAY
President, Association of the Bar of the City of New York

ROBERT B. MCKAY

According to this year's Jeffords Lecture, Robert B. McKay, "The law is a powerful instrument which can be used for good in a great many more cases than it is now." As a result of his involvements and efforts, says long time friend, Whitney North Seymour, Jr., "[Bob McKay] has developed a network for the public good."

As the 52nd president of the Association of the Bar of the City of New York, Robert McKay, formerly Dean of New York University Law School (1967-75) and president of the Legal Aid Society of New York (1975-77), is now at the heart of the City's legal community, bringing to the presidency an unusual marriage of intellectuality and activism.

Prior to returning to a tenured position as Professor of Law at New York University last year, Dean McKay was Director of the Aspen Institute Program on Justice, Society and the Individual; Director of the Institute of Judicial Administration, an independent research body, from 1980-83; chairman of the New York State Special Commission on Attica; and chairman of the New York State Board of Correction from 1973-74. He is currently president of the Citizens Union Research Foundation and chairman of the Advisory Committee on Ethical Standards of the Attorney General of the State of New York.

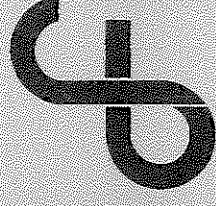
Based on a foundation of study in constitutional law and inspired by broad community interest and high minded humanism, his ideals and pragmatic approach have allowed him a special role as chairman of the ABA Section of Legal Education and Admissions to the Bar; chairman of the ABA/Association of American Law Schools Clinical Guidelines Committee; member of the Kutek Commission which developed the ABA's Model Rules of Professional Conduct; and secretary, Council on Law Related Studies.

The recurring theme in Dean McKay's scholarship and involvement is a powerful concern for fairness and justice. From this position, he will in the 1985 Jeffords Lecture confront the significance of today's demographics in professional education and in the legal field, holding that the law must continue to attract the best students and the most intelligent.

* * * * *

The Law School is proud to share the Jeffords Lecture with you and welcomes you to hear this year's lecture to be given in the Charles W. Froessel Reading Room at 57 Worth Street. The ceremonies will begin at 4:30 p.m. on Wednesday, April 17th. A reception will follow.

**THE DANFORTH SEMINARS
FOR FEDERAL JUDGES
AND EDUCATORS:
EDUCATION AND
THE COURTS**



THE DANFORTH SEMINARS FOR FEDERAL JUDGES AND EDUCATORS

The history of education has been greatly influenced by important court decisions. For example, the United States has experienced a quarter century of heavy judicial involvement in school desegregation. Issues such as school discipline, education for the handicapped, educational malpractice, bilingual education, competency testing of students and teachers, and equitable distribution of public funds for public education also are becoming major problems -- and society increasingly is assigning these problems to the federal courts.

Often the courts transcend adjudication, and for a variety of reasons, initiate policy and oversee implementation of plans in the education arena. With increasing frequency, courts assume responsibility for monitoring, dispute resolution, and enforcement, placing judges in the forefront of important educational policy and practice.

Since 1977 the Danforth Foundation has sponsored and administered two seminars each year, allowing federal judges and educators the opportunity to converse and learn from each other. More than 150 judges have attended the Danforth Seminars.

PURPOSE OF THE SEMINARS

The seminars focus on important issues facing public education which are involved with the federal courts. Each seminar is designed to assist federal judges better understand how schools are organized and administered, in order that their judicial rulings might be more feasibly carried out by school officials.

SEMINAR ACTIVITIES

With the assistance of selected educators, lawyers, deans of law schools, and federal judges who have previous experience with school desegregation and other school matters, the seminars employ actual case studies. In addition, selected school superintendents, principals, and other educators serve as consultants in the formal and informal discussions which take place. The relationship between the courts and the schools is explored at length and involves a high level of participation centering around discussion of historical background, landmark cases, resource allocations to carry out mandates, and related problems and issues. Typically, the judges in attendance gain awareness of, and sensitivity to, the effects of judicial rulings on school systems and school personnel charged with carrying out court orders.

All seminar sessions are free of transcription and unrecorded. Participants are encouraged to ask questions, share experiences, and avail themselves of the opportunity to converse with their colleagues from around the country as well as the educators and other resource persons in attendance.

THE DANFORTH FOUNDATION, established in 1927, is a national, educational, philanthropic organization, dedicated to enhancing the humane dimensions of life. Activities of the Foundation traditionally have emphasized the theme of improving the quality of teaching and learning.

Currently, the Danforth Foundation serves the following areas: higher education primarily through sponsorship of programs administered by the Staff, precollegiate education through grant-making and program activities, and urban education in metropolitan St. Louis through grant-making and program activities.

Mr. and Mrs. William H. Danforth, who established the Foundation, along with their daughter and son, Dorothy Danforth Compton and Donald Danforth, maintained active leadership roles in the affairs of the Foundation throughout their lifetimes. Family members continue to be involved in Foundation activities through participation on the Board of Trustees.

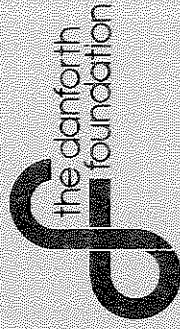
The Danforth Foundation

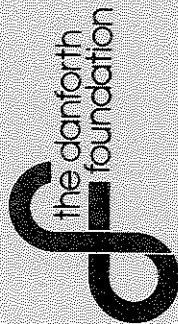
Seminars on

EDUCATION AND THE COURTS

FEDERAL JUDGES WHO HAVE PARTICIPATED — 1977-1984

J. WALDO ACKERMAN U.S. District Judge Springfield, IL	AVERN L. COHN U.S. District Judge Detroit, MI	SHERMAN G. FINESILVER U.S. District Judge Denver, CO	PATRICK HIGGINBOTHAM U.S. District Judge Dallas, TX	THOMAS D. LAMBROS U.S. District Judge Cleveland, OH	DIANA E. MURPHY U.S. District Judge Minneapolis, MN
ROBERT P. AGUILAR U.S. District Judge San Francisco, CA	ROBERT F. COLLINS U.S. District Judge New Orleans, LA	BETTY B. FLETCHER Seattle, WA	DOUGLAS W. HILLMAN U.S. District Judge Grand Rapids, MI	DONALD LAY U.S. Circuit Judge Omaha, NE	DAVID S. NELSON U.S. District Judge Boston, MA
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KN 4-12-85

Ex-Cuomo office aide still faces IRS charges

By JOHN RUNFOLA

Knickerbocker News Reporter

More than three years after he admitted stealing \$178,000 by placing non-existent employees on then Lt. Gov. Mario Cuomo's staff, William Cabin still faces Internal Revenue Service charges in connection with the scam.

But those 1983 civil charges — which seek more than \$14,000 in refunds and penalties — may be dismissed today by U.S. District Judge Roger Miner because the federal government has been unable to locate Cabin.

"We haven't been able to locate him to serve papers in the case. We think he is in Washington, D.C.," said Bernard J. Malone Jr., the assistant U.S. attorney who is prosecuting the case. The government must appear before Miner and argue why the case should not be dismissed.

In an attempt to clear clogged court calendars, Miner traditionally asks the government why it has failed to proceed in situations such as the Cabin case, he said.

U.S. marshals have been unable to locate Cabin despite repeated attempts to do so since IRS charges were filed against him in October 1983.

However, *The Knickerbocker*



Cabin

News today called Cabin's last known employer, the National Association for Home Health Care, and was told by a secretary that Cabin still works there.

She said Cabin was taking another phone call and could not speak to a reporter. She said no spokesman for the association was available.

Cabin is being sued by the IRS because he filed federal income tax returns seeking refunds for three of the five fake state employees in 1979 and 1980.

Using the names Carmen Arvelo, Andrew Kingsley and John Kingsley, Cabin received federal tax refund checks totaling \$2,522, according to a complaint on file at U.S. District Court in Albany.

The government is asking for double damages totaling \$5,044 for the refunds plus an additional \$12,000 penalty for filing the false claims.

Cabin was sentenced on criminal charges in Albany County Court to 1-7 years in state prison in 1981 after he pleaded guilty to second-degree grand larceny and second-degree forgery. While executive director of then Lieutenant Governor Cuomo's office, Cabin admitted placing five fictitious employees on the state payroll. He then used the money to buy a number of town houses in downtown Albany.

The state seized the town houses and sold them to recover money Cabin stole.

Paroled after serving one year in state prison, Cabin declared bankruptcy in 1983.

City of Hudson Bicentennial Committee

P. O. Box Bicentennial 1985

Hudson, New York 12534



April 19, 1985

Roger Miner
Tom Thumb Estates
Hudson, NY 12534

Dear Judge Miner:

We are excited about a very special event taking place in Hudson, New York, on Saturday, May 4, 1985 at 2 p.m. The City of Hudson is having a 200th birthday and the Bicentennial Committee is staging a reenactment of the arrival of the city's charter in 1785.

We have commissioned the 33-foot ketch "Old Friend" to travel up the Hudson River to deliver the charter by messenger. The ketch will be coming into port under full sail at the city's waterfront. The messenger and other dignitaries will be greeted by the Kinderhook Militia Fife and Drum, who will accompany the party aboard the City of Hudson Bicentennial Mystery Float up Warren Street to city hall, where the charter will be delivered to Mayor Michael Yusko, Jr. A champagne reception will follow the presentation.

We feel that Hudson's 200th birthday is an important occasion and are proud to say Hudson is the first chartered city in the United States after the signing of the Declaration of Independence. We hope you will come and join with us in celebrating this momentous occasion. Please R.S.V.P. as soon as possible.

We are looking forward to seeing you at city hall on May 4.

Sincerely,

Helen Sacco
Member, Hudson Bicentennial Committee

Aloysius Curran
Chairman, Hudson Bicentennial Committee

Please R.S.V.P. (518) 828-4417

Roger J. Miner
U.S. District Judge
Northern District of New York

New York Law School Law Review
Annual Dinner
April 24, 1985
Coho Restaurant
New York City

In his Foreword to Volume I, No. 1, our beloved Charles W. Froessel wrote the following:

With this publication, the Trustees of New York Law School are pleased to announce the beginning of a new legal publication --the New York Law Forum-- designed not only to serve as an aid in the education and training of law students, but also as an aid to the members of the legal profession in the State of New York and in the nation. The Forum will review significant legal developments, with emphasis on New York and Federal law. We are hopeful that this publication will lead to new and worthwhile research in the law, which will be helpful to the bench and bar.

In the thirty years that have passed since that Foreword was written, the expectations of Judge Froessel have been fulfilled and surpassed. During the last three decades, our Journal not only has reviewed significant legal developments; it has originated new ideas and concepts. Not only has it been helpful to the bench and bar; it has become an essential tool of the profession. And not only has it served the legal community of

the state and nation; it has served the international legal community as well.

Our beginnings were modest indeed. The small basement office at 244 William Street, where Issue No. 1 was born, was much different from the spacious office I visited last week. And Volume I, which I was happy to see standing on a shelf in that office, is different from Volume XXX in many ways. Certainly, the format was different. The Notes and Comments were much shorter, there were separate sections for the review of decisions and legislation, and all student contributions were unsigned. Substantively, the student pieces did not display anywhere near the critical approach to subject matter or the personal viewpoints found in our modern law review.

But there are more similarities than differences between Volume I and Volume XXX. The problems faced by the Editors, I am sure, are the same. I well remember my first editing job. The item involved a discussion of a 1954 Illinois decision holding that the artificial insemination of a wife through a man other than her husband constituted adultery. It began: "Artificial insemination has only lately come into the public eye." I was, of course, constrained to re-write that opening line. The lead Article in Issue 1 was written by that great lion of American jurisprudence, Dean Roscoe Pound, and was entitled: "The Judicial Process in Action." Our Editors struggled with the

organization and footnoting of that Article just as today's Editors contend with the Articles of the great modern scholars. Incidentally, Issue No. 1 included a book review of the 1955 edition of "Newman on Trusts" by a young Associate Professor named Milton Silverman. I hope that he has since acquired a more current edition.

To me, however, the most striking similarity between the first and thirtieth volumes lies in the identity of the general topics addressed. There have been, without doubt, momentous changes in the law, the legal system and the profession during the past thirty years. But a browse through Volume I brings the startling revelation that many of the topics covered are still timely enough, interesting enough, and important enough to be worthy of current examination.

Over the years, many outstanding people have held responsibility for the production of our Journal. The development and success of the Law Review are attributable to shared experiences. The contributions of all who have served have led to the creation of a prestigious publication reflecting great credit upon alma mater. Indeed, the reputation of the law school and the reputation of the law review have moved upward on a parallel path. During three decades, the editors of the New York Law School Law Review have demonstrated a persistent commitment to the highest standards of scholarship and to the

establishment of a forum for the presentation of divergent views. I salute you, my law review colleagues, for your vision and your labors and for the success of our enterprise. I congratulate each and every one of you for the part you have played in reaching this important milestone in our history.

On behalf of the Law Review Alumni, I say this to the present Editors: You have our love, respect, devotion, encouragement, support and maybe an article from time to time. But always remember that you bear the heavy burden of tradition and that we are all present in spirit, looking over your shoulders, as you carry forward the work we have passed to your hands. Remember, too, that our publication has been dedicated since its inception to those who have served our School -- the great teachers and loyal alumni, the latter exemplified by John Marshall Harlan, appointed to the Supreme Court just before the appearance of our first issue. And lastly, be aware that, in the final analysis, the pursuit of excellence is our only real legacy to you and your only unbreakable promise to us.

25th ANNUAL LAW REVIEW BANQUET

FROM THE EDITORS

The Editorial Board and Staff of the New York Law School Law Review are proud to announce that 1985 marks our 30th anniversary of continuous publication. Over the past thirty years, students, academicians, and practitioners have increasingly come to recognize the Law Review as an excellent source of timely legal commentary. On this occasion, we pay special tribute to all those who have contributed to the success of the Law Review by briefly tracing the history of its establishment.

Preceding the establishment of the Law Review in 1955 were three less successful attempts at launching a wholly student-edited legal periodical at New York Law School. The precursor to the current Law Review was The Counsellor, The New York Law School Law Journal, (The Counsellor) which was established in 1891 upon the founding of New York Law School. That founding grew out of a historic controversy between President Low and Founder and Professor Theodore Dwight of Columbia Law School over the question of introducing the Harvard case method into the Columbia curriculum. In the end, Professor Dwight, along with a portion of the faculty who strongly opposed the use of the case method, left the law school. Thereafter, in 1891, Dwight's adherents organized New York Law School for the purpose of perpetuating his method of instruction, which emphasized principles of law rather than case study. The Counsellor, established in the fall of that year, enjoys the distinction of being one of the first wholly student-edited legal periodicals in America, preceded only by the Harvard Law Review (1887), and the Yale Law Journal (1890). It is interesting to note that, in terms of format, articles appearing in The Counsellor were footnoted only sparingly. Articles appearing in the Harvard Law Review, on the other hand, were footnoted much more liberally. The use of a less documented format by the staff of The Counsellor may be yet another manifestation of New York Law School's rebellion against the Langdellian method of "scientific" study.

Throughout its years of publication The Counsellor featured a broad range of contributors. Preeminent scholars of the day such as George Chase, New York Law School's first dean, and William H. Taft, 10th Chief Justice of the United States Supreme Court and 27th President of the United States, are among those whose work has been included, along with Frederic Coudert, Louis Ledyard, and many others who were either founders or name partners in New York City's leading law firms. Despite all its apparent success, however, The Counsellor abruptly ceased publication in May of 1896. The circumstances surrounding its demise are not entirely clear.

The Law School's second attempt at permanently establishing an official, scholarly, legal publication came in December of 1928 when the Student Council founded the New York Law School Review (Review). This time around, the editors of the Review adopted the now accepted law review format, utilizing footnotes to reference pertinent articles and decisions. Lead articles for the Review were once again contributed by prominent academicians and practitioners and included the work of many New York Law School professors. Its success was short-lived, however, for upon the death of Faculty Advisor Albert G. Mohr in January, 1930, the Alumni Association was unable to undertake support of the Review, and it ceased publication.

A little more than two decades later, a law review published by New York Law School once again emerged in the form of the New York Law School Student Law Review (Student Law Review). Unlike its predecessors, this journal was established with the avowed purpose of publishing primarily student authored work. The Student Law Review enjoyed only moderate success, however, and, in toto, published six issues from 1951 to 1953.

The present law review was founded by the New York Law School Trustees in 1955 under the name of the New York Law Forum (Forum). In the process of establishing the Forum, Dean Allison Reppy had wanted to call the publication the New York Law School Law Review. The name Forum was chosen, however, because another legal periodical, not affiliated with any law school, had been named the New York Law Review. This publication had apparently folded after publication of only a few issues, and for Dean Reppy the title was politically untouchable.

By 1976 the onus of such a title had apparently worn off, for it was in that year that the Forum was renamed the New York Law School Law Review (Law Review). By this time the Forum had firmly established its value as a source of timely legal commentary through publication of a number of articles that directly affected the development of the law.

Particularly in the area of securities law, the Law Review has been recognized repeatedly by the Supreme Court in such seminal decisions as Piper v. Chris-Craft Industries, 430 U.S. 1, 61 (1976), (citing Bromberg, The Securities Law of Tender Offers, 15 N.Y.L.F. 459 (1969)), United Housing Foundation, Inc. v. Forman, 421 U.S. 837, 858 (1975) (citing Dickey & K-Thorp, Federal Security Regulation of Condominium Offerings, 19 N.Y.L.F. 473 (1974)), and Kern County Land Co. v. Occidental Corp., 411 U.S. 582, 594 (1973) (citing Gadsby & Treadway, Recent Developments Under Section 16(b) of the Securities Exchange Act of 1934, 17 N.Y.L.F. 687 (1971)).

Of the many influential articles published in the Forum, Professor Means' article surveying the history of elective abortion has had perhaps the greatest impact on the development of the law. Entitled The Phoenix of Abortional Freedom: Is a Penumbra or Ninth Amendment Right About to Arise From the Nineteenth-Century Legislative Ashes of a Fourteenth-Century Common Law Liberty?, 17 N.Y.L.F. 335 (1971), the article was cited repeatedly throughout Justice Blackmun's landmark opinion in Roe v. Wade, 410 U.S. 113 (1973).

Since 1976, the Law Review has continued in the fine tradition of its predecessor publications. Recently, Douglas Besharov's article entitled State Intervention to Protect Children: New York's Definitions of "Child Abuse" and "Child Neglect," 26 N.Y.L. Sch. L. Rev. 723 (1981), was cited in a dissent by Justice Rehnquist to support the proposition that proceedings governing the power of the state to terminate the rights of natural parents established by statute in New York are not violative of the fundamental liberty interest of natural parents in the care, custody, and management of their child when there has been a finding that the child is "permanently neglected." Santosky v. Kramer, 455 U.S. 745, 789 (1982) (Rehnquist, J., dissenting).

The Law Review continues to play an important role in the development of the law. Examining controversial issues of life and death, the highest courts of New York and New Jersey, considered by many to be two of the most progressive state courts in the nation, once again turned to the Law Review for support. Both courts cited Morris Abram's article entitled The Need for Uniform Law on the Determination of Death, 27 N.Y.L. Sch. L. Rev. 1187 (1982), which appeared in the Symposium On Life and Death. People v. Eulo, 63 N.Y.2d 341, 350, 472 N.E.2d 286, 291, 482 N.Y.S.2d 436, 441 (1984). Hake v. Manchester Township, 98 N.J. 302, 315, 486 A.2d 836, 843 (1985).

Such symposium issues have been prominent in the history of the Law Review. Over the years the Law Review has published a number of symposium issues devoted to such compelling topics as space law, labor law, discrimination in housing and employment, wiretapping, bankruptcy, capital punishment, housing, scientific and medical evidence, international law, urban affairs, legal rights of women, sports law, antitrust, copyright, video technology, international trade, securities law, tender offers, and franchises. The latest in this continuing, in-depth analysis of legal issues is a symposium on legal education, which will be published in September, 1985.

The Editors and Staff of the Law Review are grateful for the support that the legal community has shown us throughout our long history of publication. We are confident that such support can only further enhance the quality and stature of the Law Review as we embark on what are certain to be many more years of successful publication. Continuing this effort to enhance the Law Review's contribution to the development of the law, the Editors are considering the introduction of a Forum section. This new addition would provide an open forum for the views of our readers through publication of their comments regarding current developments in the law or their responses to work recently published by the Review. Your comments concerning this suggested addition would be appreciated. We invite our readers to correspond with the Law Review and to continue to turn to us for thorough analysis and timely commentary on important legal issues.

Law Review Alumni and Guests in Attendance

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2. w/guest
3. Jonathan Kimmel
4. Carol Santangelo
5. Winthrop Smith, Jr.
6. w/Mrs. Smith
7. Mitchell Williams
8. w/ Mrs. Williams
9. James Clarity

Class of '83

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2. Vincent D'Orazio
3. Claire Durst
4. Roberta Korus
5. Jeffrey Levitan
6. Ellen Perle
7. Michael Roffer
8. Mary-Jo Saeli
9. Martin Silverman

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2. Thomas Charbonneau
3. Paul Geoghan
4. Erik Strangeways

Class of '81

1. Rena Friedlander

Class of '80

1. Karen Ash
2. Scott Batterman
3. w/Ms. Collins
4. Dr. Allen Bloom
5. Edward Westfield

Class of '79

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2. Amy Turner
3. H. Jo Schneider

Class of '77

1. Judith Reichler
2. Geoffry Smith
3. w/Mrs. Smith
4. Fred Wistow

Class of '76

1. Ronald Gitter
2. Menachem Kastner
3. William Spadaro
4. Herbert Sudfeld

Class of '75

1. Patricia Donlevy
2. Frances Salten
3. Paul Garland

Class of '74

1. Paul Montclare
2. w/guest

Class of '73

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2. w/Mrs. Sculnick
3. Linda Sosnowitz

Class of '72

1. Joel Spivak

Class of '69

1. Robert DiNardo
2. Gerald Marks

Class of '68

1. Dennis Malen
2. Edward Filardi

Class of '64

1. Raymond Messina

Class of '63

1. George Hart
2. w/Mrs. Hart

Class of '60

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2. Sylvia Garland
3. w/ Albert Garland
4. Aaron Windheim
5. w/ guest

Class of '59

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2. Leo Gilberg
3. w/ Mrs. Gilberg
4. T. Lawrence Tabak
5. w/ Mrs. Tabak

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1. Jerome Berger
2. Richard Flynn

Class of '56

1. Hon. Roger Miner
2. w/Mrs. Miner

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1. Jordan Bierman
2. w/ Mrs. Bierman
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April 26, 1985

To Bar Association Presidents in the State of New York:

You and your membership are cordially invited to attend a joint session of the state and federal judiciaries of New York, sponsored by the State/Federal Judicial Council. To be held at 3:30 P.M. on May 14, in room 408 (the Appellate Term Courtroom) of the New York State Supreme Court Building, 60 Centre Street, the program is entitled "Working with the Individual Judge Assignment System." Our mutual purpose is for state and federal trial judges to share their experiences with the individual calendar, so that the coming implementation by state trial judges can be effectuated smoothly.

Speakers will include two state and two federal judges who have extensive experience with individual calendar systems. Chief Judge Constance Baker Motley of the U.S. District Court for the Southern District of New York will describe the experience of the nation's largest federal court in adopting the system 15 years ago, and Judge Roger J. Miner of the Northern District of New York, formerly a state judge and state prosecutor, will describe his experience with the recent adoption by a smaller and more rural district of the same system. Justices Albert M. Rosenblatt and Martin B. Stecher of the New York Supreme Court will describe their experiences under the individual calendar in the state courts, in the criminal and civil parts respectively.

Other participants will include Chief Judge Sol Wachtler, who will deliver opening remarks, and numerous top judges of both judicial systems. The program will include ample time for questions and discussion, and will be followed by a period for informal socializing and exchange of views. We hope that you and your members can attend.

Sincerely,

Edwin Kassoff
Trial Judge Representative,
State/Federal Council

Steven Flanders
Federal Court Circuit Executive

Conference Co-ordinators

SF:lr

UNITED STATES COURTS
JUDICIAL COUNCIL OF THE SECOND CIRCUIT

To : Federal Judges in New York State

DATE: April 29, 1985

SF
FROM : STEVEN FLANDERS, CIRCUIT EXECUTIVE

RECEIVED

SUBJECT : Joint Conference on the Individual Calendar,
of State and Federal Judges

MAY 1 - 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

You are cordially invited to attend a joint session of the state and federal judiciaries of New York, sponsored by the State/Federal Judicial Council under the chairmanship of Judge Cardamone. To be held at 3:30 P.M. on May 14, in room 408 (the Appellate Term Courtroom) of the New York State Supreme Court Building, 60 Centre Street, the program is entitled "Working with the Individual Judge Assignment System." Our mutual purpose is for state and federal trial judges to share their experiences with the individual calendar, so that the coming implementation by state trial judges can be effectuated smoothly.

Speakers will include two state and two federal judges who have extensive experience with individual calendar systems. Chief Judge Constance Baker Motley will describe the experience of her court in adopting the system 15 years ago, and Judge Roger J. Miner, who as you know was formerly a state judge and state prosecutor, will describe his experience with the recent adoption by a smaller and more rural district of the same system. Justices Albert M. Rosenblatt and Martin B. Stecher of the New York Supreme Court will describe their experiences under the individual calendar in the state courts, in the criminal and civil parts respectively.

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I hope that you can attend.

SF:lr

The JURIST

Publication of the Association of Justices of the Supreme Court of the State of New York.

Spring 1985

Chief Judge Wachtler Assured of Association's Support

Chief Judge Wachtler has been informed by President Fred Marshall that the members of the Association of Justices of the Supreme Court are resolved to cooperate to the "fullest extent" in Judge Wachtler's efforts to implement the individual calendar system in Civil as well as Criminal cases throughout the State.

Justice Marshall, in a letter to the Chief Judge advised that

"The Judicial District Representatives have been requested to carry back to their respective Justices this policy decision unanimously adopted at a recent Executive Committee meeting. On behalf of the Association I am privileged to reaffirm here our pledge of cooperation as expressed in my letter to you of January 4, 1985."

In that same letter Justice Marshall expressed his delight that the Chief Judge and Mrs. Wachtler would join us at our annual meeting September 19-22, at Grand Island.

* * *

Where Is This Court Room?



Answer on Page 6

PRESIDENT'S MESSAGE

Immediately after my election as President of the Association of Supreme Court Justices of the State of New York, I sent out a letter to the members offering each the opportunity to serve on one of the many committees actively pursuing our Association objectives and concerns. The response has been gratifying. We have a robust, diversified array of committees working on your behalf. (NOTE: Names of each committee and its designated Chair are enumerated on the last page.) I know that you are appreciative of their efforts and join me in extending our thanks. Membership in this Association becomes an even more valuable asset as we join together to improve the Judicial environment.

From every view, this should be a very active year. Your participation in Association activities will make an active year a productive one.

To our immediate past president Justice Franklin W. Morton and to his lovely lady we express our deep respect and sincere thanks for their dedicated services to the Association. Much more will be said about that gracious couple at the Saturday night party in Grand Island in September.

Judges and spouses should be making plans now to attend the most lavish Association Convention in history. We have some very elaborate entertainment plans, all designed to assure that you will be comfortably housed, graciously dined, and courteously served. Oh yes, we will have an educational program. The Holiday Inn on Grand Island is a self-contained recreational facility. Golf, tennis, indoor-outdoor pools, fishing, boating . . . you name it . . . its got it. Dietary needs will be honored on request. Hold September 19, 20, and 21. Much more later.

Cordially,
FREDERICK M. MARSHALL
President

* * *

SETTLEMENT OF WRONGFUL DEATH AND PERSONAL INJURIES ACTIONS

by Surrogate C. Raymond Radigan (Nassau)

Justice Clemente asked me to write an article on the procedures used in settling wrongful death and personal injuries actions as they relate to Surrogates practice.

A number of years ago the Board of Judges of Nassau County and the Surrogate entered into an agreement concerning the procedures to be em-

(Continued on Page 5)

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*Members of Executive Committee

**Deceased

* * *

Nicholas A. ClementeEditor, The Jurist

Don't look back. Something may be gaining on you.

—Leroy (Satchel) Paige

* * *



YOUR EDITOR

Always do right. This will gratify some people, and astonish the rest.

—Mark Twain

* * *

Members are encouraged to send to **The Jurist** any articles, suggestions, notices or tidbits of information, controversial or otherwise, that might be interesting to the other Justices. Since we are a statewide Association whose meetings are necessarily of limited frequency, it is intended that **The Jurist** serve as an interim focal point from which dialogue might be initiated, and perhaps developed, for more complete discussion at Committee meetings and/or annual meetings. You write—we print!

* * *

The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding.

—Louis D. Brandeis
Olanstead v U. S.
277 US 438, 479 (1928)

PAST PRESIDENTS DO NOT FADE AWAY

Dear Judge:

You will be happy to know that our Association continues to grow and be effective!

We have established dialogue with Bar Associations throughout the State of New York.

One of our Committees is arranging for worldwide travel.

I was deeply gratified by the strong support that I received from the membership and the cooperation and diligence proffered by the Committee Chairperson, Newsletter Editor and all the Officers.

Our January sessions were well attended and successful.

I eagerly anticipate our next General Meeting at Grand Island—a beautiful location, in a beautiful season. Our vibrant new President, Fred Marshall, is making great plans and looks forward to your cooperation and attendance.

Sincerely,
Frank Morton

* * *

When the wayfarer whistles in the dark, he may be disavowing his timidity, but he does not see any the more clearly for doing so.

—Sigmund Freud

* * *

TAKING THE JUDGE OUT OF THE COUNTRY

Justice Robert White's school for the urbanization of upstate Justices, although temporarily suspended did perform an invaluable function in that Judicial recruits from all over New York State learned about million dollar verdicts in the apple. Justice Carrol Walsh, after a brief but lustrous sojourn at 80 Centre Street, New York, New York, was impatient to return to Johnstown to test big City principles in certain rural communities ("what do you mean only \$500,000.00 for a post-concussion syndrome?").

In truth, the effect of the temporarily reassigned Justices was symbolic because City lawyers benefited from their exposure to the courtly country Justices.

* * *

In the United States, it is almost inconceivable what rubbish a public man has to utter today if he is to keep respectable.

—John Maynard Keynes (1932)

Justice, I think is the tolerable accommodation of the conflicting interests of society, and I don't believe there is any royal road to attain such accommodations concretely

—Learned Hand (1946)

* * *

JUSTICES URGED TO JOIN AJS

The American Judicature Society is the nation's leading organization involving lawyers, citizens and judges working together at every level to improve our courts.

The organization concerns itself with many areas which are of vital importance to the judiciary. The list of some of their activities includes methods to be used in selection of judges, court management, providing information regarding judges and the court to journalists, assisting the Judicial Nominating Commission by developing and distributing to its members educational materials, maintaining a Center of Judicial Conduct and Ethics, and conducting conferences for administrators and members of Judicial Conduct Commissions.

After completing research it makes recommendations and publishes reports that are highly respected and given weight by public officials, governmental agencies, the media and civic associations.

Judges should and must take an active role in the American Judicature Society. I strongly urge you to join.

You can mail your check for \$45, or \$10 if you are over the age of 65, to:

American Judicature Society
25 East Washington, Suite 1600
Chicago, Illinois 6062

—EDWIN KASSOFF

* * *

How dreadful it is when the right judge judges wrong!

—Sophocles

* * *

Aesop in the Courts

Associate Justice Ted Kupferman (1st Department) is now writing the column "Aesop in the Courts" for the New York Law Journal and is requesting real life anecdotes which can be converted into fables, "with or without attribution." Suggested material should be sent to Justice Kupferman, Appellate Division, First Department, Madison Avenue and East 25th Street, New York, New York 10010.

STATE-FEDERAL JUDICIAL COUNCIL

sponsors

"WORKING WITH THE INDIVIDUAL JUDGE ASSIGNMENT SYSTEM"

Sol Wachtler and Wilfred Feinberg, Chief Judges of the New York State Court of Appeals and the U. S. Courts, Second Circuit, respectively, will make opening remarks at a conference to be held at the New York State Supreme Court Building at 60 Centre Street, New York, New York on May 14, 1985.

Judith S. Kaye, Associate Judge of the Court of Appeals, and Richard J. Cardamone, Judge of the Second Circuit, U. S. Courts, will be co-chairpersons of the conference, the latter being Moderator of a panel consisting of Albert M. Rosenblatt and Martin B. Stecher, Justices of the Supreme Court, and Constance Baker Motley, Chief Judge of the Southern District of New York, and Roger J. Miner, Judge of the Northern District of New York at Albany.

All judges are urged to attend this most interesting and informative conference which will commence at 3:30 P.M. with a panel discussion followed by questions from the audience, after which we will all socialize in a collation which will end at 6 P.M.

Steven Flanders, Circuit Executive, U. S. Courts, Second Circuit, and Edwin Kassoff, trial judges member of the State-Federal Judicial Council are conference coordinators.

All the panelists have experience with individual calendar systems, either in the civil or criminal parts, and much valuable information and guidance will be made available which is so important for us as we will very soon have our own individual calendars.

Please mark the May 14 conference in your calendar and make arrangements to attend.

—EDWIN KASSOFF

* * *

How amazing it is that, in the midst of controversies on every conceivable subject, one should expect unanimity of opinion upon difficult legal questions! . . . The history of scholarship is a record of disagreements. And when we deal with questions relating to principles of law and their applications, we do not suddenly rise into a stratosphere of icy certainty.

—Charles Evans Hughes (1936)

* * *

GOOD NEWS

Justices Ellerin, Rosenberger, Kunzeman and Pines have all been appointed to the Appellate Division in their respective Departments. In addition, Justices Monteleone, Learner, Stark and Past President, Ed Kassoff, have been appointed to the Appellate Term in the Second Department.

GRAND ISLAND MEETING

The annual meeting of the Association of Supreme Court Justices, will be held September 19-22, 1985 at Grand Island. President Marshall, after consultation with Harold J. Brand, Jr. of OCA has arranged that every Justice attending will be reimbursed for the cost of transportation plus \$100.00 per day for two (2) days. With Chief Judge and Mrs. Wachtler attending this promises to be one of our most memorable and productive annual meetings.

* * *

Good government obtains when those who are near are made happy, and those who are far off are attracted.

—Confucius

* * *

The Soroptimist International of the Americas, a women's service organization, has named their Second Vice President, Maxine K. Duberstein, a "woman of distinction," in recognition of her professional/voluntary accomplishments in the program area of Human Rights/Status of Women. The award was made on March 27th at a dinner in Kings County.

—The Fratoptomists have yet to be heard from.

—ed.

* * *

"MONEY MAKES THE WORLD GO ROUND" REPORTS OUR TREASURER

As your new Treasurer, I am happy to report that we are financially sound. Justice Maxine Duberstein did an outstanding job during her year as Treasurer and meticulously accounted for all receipts and expenses.

We had a most rewarding year capped by an upgrade in pay for all judges in New York State. The Executive Committee meets regularly and often. There are many areas of concern common to us all as the law continues to evolve. There are also many new proposals that we must consider and we have a responsibility to let our views be known. Unfortunately, our expenses continue and I, therefore, urge that as soon as you receive your bill for annual dues, you send your check. I assure you the money will continue to be used for our mutual benefit."

Very truly yours,
VINCENT E. DOYLE
Treasurer

WRONGFUL DEATH ACTIONS

(Continued from Page 1)

played when such proceedings are settled in the Supreme Court since most of such actions commenced by fiduciaries are settled in the Supreme Court.

EPTL 5-4.6 provides that the written approval of a compromise of an action for wrongful death by the court in which the action is pending is conclusive evidence of the adequacy of the compromise in any proceeding in the Surrogate's Court. The only parties in the action are the fiduciary as plaintiff and the defendants. Those who have an interest in the estate are not parties but are represented by the fiduciary. If a fiduciary is also one who would share in the wrongful death and personal injuries actions compromise, he could have a possible conflict in the allocation of the funds between the two recoveries. He may prefer to have more allocated to one action than the other depending on what his interest is and where he would receive more of a recovery for himself. Creditors would prefer to have proceeds allocated to the personal injuries action since their claims may be paid out of that recovery but not the wrongful death recovery. An infant distributee who is not a legatee would prefer a larger wrongful death recovery than a personal injury recovery.

If the Supreme Court were to compromise the actions, allocate the recovery between the wrongful death and personal injuries actions, fix the attorneys' fees and direct the distribution of the proceeds, creditors and other parties who have an interest in the estate would not have an opportunity to be heard unless they could prove fraud (See the Governor's message issued on the passage of Chap. 893 of the Laws of 1960, McKinney's Session Laws of New York for 1960, pg 2053).

It is the policy in Nassau County that when a Supreme Court justice compromises a wrongful death and personal injuries action, he or she approves the overall settlement but refers all other issues to the Surrogate. When the matter is referred to the Surrogate, a petition is submitted to that court to allocate the recovery between the two causes of action, to provide for payment of creditors' claims and to distribute the recovery among the legatees or distributees as to the net personal injuries recovery and the wrongful death recovery among those distributees having suffered a pecuniary loss. Unlike the Supreme Court action, all parties in interest (legatees, distributees and creditors) are made parties to the proceedings in the Surrogate's Court. This procedure accomplishes the following:

1. Allocation of the recovery between the two causes of action is made as well as fixation and apportionment of attorneys' and guardian ad litem fees and commissions due the fiduciary.

2. Controversies between creditors as to the priority of their claims and their allowance are determined.

3. Questions as to the proper allocation of hospital, funeral and other expenses as between the

wrongful death and personal injuries actions are determined.

4. A determination is made by the Surrogate either based on the evidence submitted to the court or after

a hearing as to the alleged disability of a distributee in order to assess the pecuniary loss of that individual. Guardians ad litem are appointed for those under disability.

5. A determination is made whether a person, in fact, has sustained a pecuniary loss.

6. The selection of the most adequate formula which should be employed in distributing the wrongful death recovery among the distributees suffering a pecuniary loss is determined (See Matter of Kaiser, 198 Misc 582 and cf. Matter of Maerke, 44 Misc 2d 617).

7. Questions of conflict of law are reviewed.

8. Questions relating to post death of a party in interest as it affects the recovery and distribution are resolved.

9. The propriety of a structured settlement is reviewed.

10. Questions of whether a surviving spouse or parent should share in the recovery or whether they should be precluded therefrom because of alleged abandonment or failure to support are determined.

11. The rights of children born out of wedlock are determined.

In some instances the Supreme Court justices will fix the attorneys' fees but in most instances they will refer that matter to the Surrogate so that he can fix the fee and allocate it among the two causes of action.

The procedures we employ in our county have worked out well. When a matter is settled in the Supreme Court, the judgment is stamped with the provision that the matter is referred to the Surrogate for further proceedings. In effect, at that point, the matter is referred to us to fully review the rights of all parties concerned as to how the settlement should be allocated and distributed. We have also arranged a like procedure with some of the federal District Court judges. Some of the other counties also employ like procedures but in order to have uniformity, I recommend that a statewide policy be implemented to guarantee fairness to all persons having an interest in the recovery.

* * *

The Law, wherein, as in a magic mirror, we see reflected not only our own lives, but the lives of all men that have ever been! When I think on this majestic theme, my eyes dazzle.

—Oliver Wendell Holmes, Jr.
to the Suffolk Bar Association (1885)

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March 1, 1985 — March 1, 1986

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Committee to Formulate a Report and Recommendations as to Action . . . to Address the Problems Facing Minority Lawyers and Minority Bar Associations, etc.	George Bundy Smith

* * *

Justice is truth in action.

—Benjamin Disraeli



Hon. Tom Jones and Hon. Frank Pino discussing retirement. Both illustrious Justices, after 20 years of service in the Supreme Court are retiring at the end of this year.

In Memoriam

Former Supreme Court Justice Samuel Marshall Gold passed away Tuesday, February 12, 1985 at the age of 88. He served on the New York Supreme Court Bench for 22 years, from 1951 to 1972. In 1968, he was President of the Association of Supreme Court Justices of the State of New York. Since 1972, he was counsel to the law firm of Gold, Farrell & Marks at 595 Madison Avenue, New York, New York. Justice Gold was a eminent scholar and humanitarian with a long and distinguished career at the bar and in public service. An honored graduate of Fordham Law School in 1924, he served since 1974 as a member of the Committee on Character and Fitness of the First Judicial Department. He was a member of the Board of Advisors of the New York Law Journal. He was a member of the American-Mexican Claims Committee, Washington, D. C. from 1943 to 1947. He was a member of the American Academy of Law and Science, of the Association of the Bar, the American Bar Association, the New York State Bar Association and the New York City Lawyers Association.

Surviving him are his wife, Martha, his sons Martin R. Gold, senior member of the law firm of Gold, Farrell and Marks and Leonard M. Gold, Vice President of Beer, Stearns & Co., and three (3) grandchildren.

HILDA SCHWARTZ

* * *

ANSWER

One of the more ornate court rooms in the Supreme Court, 15 Willoughby Street, Brooklyn, New York. Seated in the Jury Box is Sheridan Albert, Esq., President of the Brooklyn Bar Association.

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1984-1985

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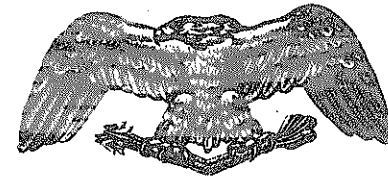
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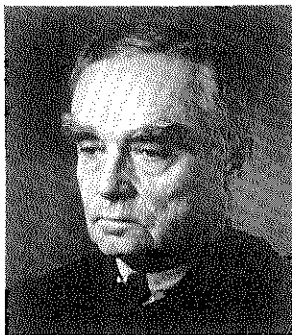
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Federal Bar Council



LEARNED HAND
1872-1961

The Learned Hand Medal named in memory of the distinguished jurist is presented annually by the Federal Bar Council to an outstanding member of the legal profession who has demonstrated excellence in Federal Jurisprudence.

Learned Hand's brilliant judicial career spanned a half century. Appointed to the United States District Court for the Southern District of New York in 1909, he was elevated to the Circuit Court in 1924. He later became Chief Judge of that Court, a post he held until his retirement in 1951 when he assumed senior status. He made massive contributions to the law and to American literature, notably *The Spirit of Liberty*.

Previous Recipients of the Learned Hand Medal

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Ambassador Arthur J. Goldberg
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Circuit Judge (Ret.) Harold R. Medina
Associate Justice John M. Harlan
Associate Justice William J. Brennan, Jr.
Attorney General Herbert Brownell
Secretary of State William P. Rogers
Chief Justice Warren E. Burger
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District Judge Edward Thaxter Gignoux

Law Day Dinner Program

John D. Gordan, III
Chairman, Law Day Dinner
will preside

•

Reading of President Reagan's
Law Day Proclamation
by

The Honorable Peter K. Leisure
Judge, United States District Court,
Southern District of New York

•

Benno C. Schmidt, Jr.

Dean, Columbia University School of Law

will present to

Herbert Wechsler

Harlan Fiske Stone Professor Emeritus of Constitutional Law
Columbia University School of Law

THE COUNCIL'S
LEARNED HAND MEDAL

for

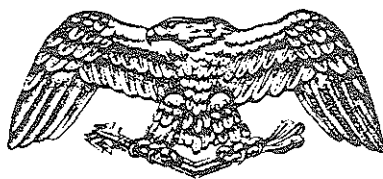
EXCELLENCE IN FEDERAL JURISPRUDENCE

Reception

for the Federal Judiciary in the
Cotillion Room at six-thirty

Dinner

in the Grand Ballroom
at seven-thirty



The President and Trustees'

of the

Federal Bar Council

request the honor of your presence

at its annual

Law Day Dinner

to be held at

The Pierre

Wednesday, the first of May

Nineteen hundred and eighty-five

at six-thirty o'clock

R.S.V.P.

Black Tie



"Liberty lies in the hearts of men and women. When it dies there, no constitution, no law, no court can save it. No constitution, no law, no court can even do much to help it ... The spirit of liberty is the spirit which is not too sure that it is right. The spirit of liberty is the spirit which seeks to understand the minds of other men and women. The spirit of liberty is the spirit which weighs their interests alongside its own without bias. The spirit of liberty remembers that not even a sparrow falls to earth unheeded. The spirit of liberty is the ... lesson ... [mankind] has never learned, but has never quite forgotten; that there may be a kingdom where the least shall be heard and considered side by side with the greatest."

LEARNED HAND

Law Day Dinner Program

John D. Gordan, III
Chairman, Law Day Dinner
will preside

•

Reading of President Reagan's
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by

The Honorable Peter K. Leisure
Judge, United States District Court,
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Benno C. Schmidt, Jr.

Dean, Columbia University School of Law

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Harlan Fiske Stone Professor Emeritus of Constitutional Law
Columbia University School of Law

THE COUNCIL'S
LEARNED HAND MEDAL
for

EXCELLENCE IN FEDERAL JURISPRUDENCE

Reception

for the Federal Judiciary in the
Cotillion Room at six-thirty

Dinner

in the Grand Ballroom
at seven-thirty

HONORED GUESTS

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Federal Bar Council

Annual Law Day Dinner

WEDNESDAY, MAY 1, 1985

The Pierre

FIFTH AVENUE AT 61st STREET
NEW YORK CITY

RECEPTION 6:30 P.M.
COTILLION ROOM

BLACK TIE
DINNER 7:30 P.M.
GRAND BALLROOM

THE PRESENCE OF SPOUSES IS ESPECIALLY WELCOME



Federal Bar Council

Annual Law Day Dinner

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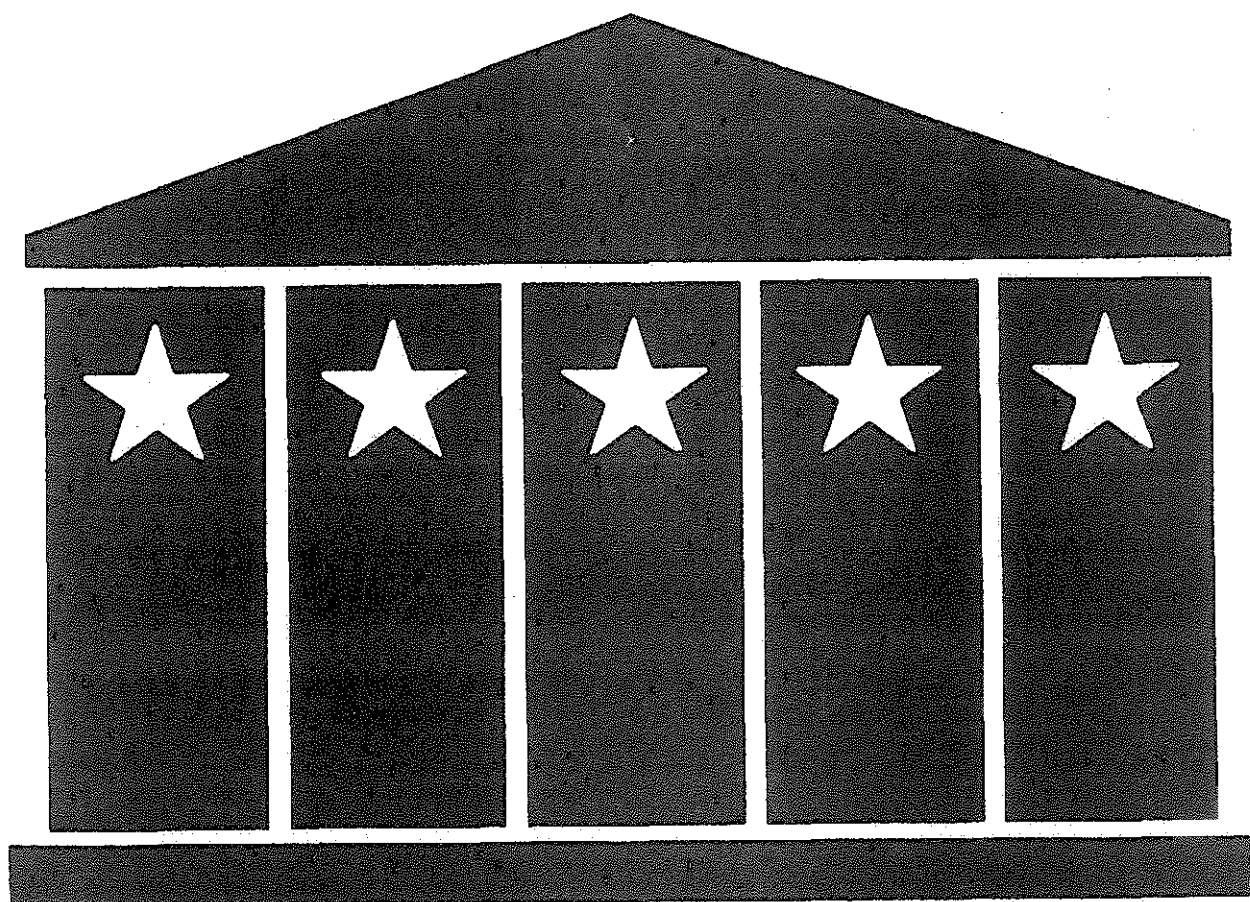
THE PRESENCE OF SPOUSES IS ESPECIALLY WELCOME

**The
New York
State Bar
Association**



presents a
Continuing Legal Education
program on:

FEDERAL COURT PRACTICE



**March 29, 1985
April 19, 1985
May 3, 1985**

**Rochester
New York City
Albany**

**Cosponsored by the Committee on Federal
Courts and the Committee on Continuing
Legal Education of the New York State
Bar Association**

FEDERAL COURT PRACTICE

Program Description

The Committee on Federal Courts and the Committee on Continuing Legal Education of the New York State Bar Association are pleased to offer this up-to-date, timely and traditionally popular day-long course on basic federal civil practice. This course will focus on practice and procedure in the federal district court and is designed to familiarize the general practitioner, general litigator or other attorney who has not had extensive exposure to the federal court system with the theory, practice and tactics of litigating civil matters in federal court.

Written materials, prepared by the faculty and other experienced federal litigators, will be distributed to each registrant.

In addition to discussing the theory and law of federal court practice, the speakers will offer helpful, practical tips and guidance on handling all aspects of a civil case in federal court, based upon their own respective experiences and favored tactics. The program is designed to provide practical "nuts and bolts" information and places particular emphasis on discovery. The faculty will highlight many of the differences between civil practice in state court and in the federal district court. Included within each speaker's scheduled speaking time will be the opportunity for panel discussion and audience questioning.

This course should be a valuable introduction for those without an extensive background in federal civil practice, but in addition, should be a useful review for more experienced practitioners who may want to brush up on their skills and knowledge.

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Chair, Committee on Federal Courts, New York State Bar Association

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Winthrop, Stimson, Putnam & Roberts
New York City

Program Chair and Speaker

ROBERT L. HAIG, Esq.

Kelley Drye & Warren
New York City
(all three locations)

Speakers (in alphabetical order)

HON. VINCENT L. BRODERICK

United States District Judge
Southern District of New York
New York City
(New York City location)

ROBERT L. CONASON, Esq.

Gair, Gair & Conason, P.C.
New York City
(New York City location)

ALEXANDER C. CORDES, Esq.

Phillips, Lytle, Hitchcock, Blaine & Huber
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(Rochester location)

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St. John's University School of Law
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(all three locations)

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United States Magistrate
Northern District of New York
Albany
(Albany location)

HON. MICHAEL A. TELESKA

United States District Judge
Western District of New York
Rochester
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HARRY P. TRUEHEART, III, Esq.

Nixon, Hargrave, Devans & Doyle
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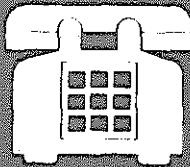
Program Agenda

8:30-9:00 a.m.	PROGRAM REGISTRATION (outside meeting room)
9:00-9:45	COMMENCEMENT OF THE ACTION (JURISDICTION, VENUE, PLEADINGS)
9:45-10:30	MOTION PRACTICE INCLUDING TEMPORARY RESTRAINING ORDERS AND ORDERS TO SHOW CAUSE
10:30-10:45	COFFEE BREAK
10:45-11:30	DISCOVERY — AN OVERVIEW
11:30-12:15 p.m.	DISCOVERY — DEPOSITIONS
12:15-1:30	LUNCH (on your own)
1:30-2:15	DISCOVERY — FROM THE PERSPECTIVE OF THE COURT; THE ROLE OF THE MAGISTRATE
2:15-3:00	CALENDAR PRACTICE AND PRE-TRIAL CONFERENCES
3:00-3:15	COFFEE/SOFT DRINK BREAK
3:15-4:15	TRIALS AND THE FEDERAL RULES OF EVIDENCE
4:15-5:00	APPEALS
5:00	ADJOURNMENT

Registration Information and Form

ADVANCE REGISTRATION: Advance registration is recommended. Seating is limited in all locations, and registration will be taken on a first-come, first-served basis. If you plan to register shortly before or on the day of the program, please contact our Registrar at 1-800-582-2452 (in the Albany and surrounding areas dial 463-3724) so that we can notify you of any possible last minute changes. **Tape recording of NYSBA seminars is not permitted.**

CANCELLATIONS: Your registration fee will be refunded under NYSBA's refund policy if you give us notice *before the scheduled date for which you are registered*. To cancel, write or call Registrar, CLE Department, New York State Bar Association, One Elk Street, Albany, NY 12207 — Telephone 1-800-582-2452 (in the Albany and surrounding areas dial 462-3724). If you do not cancel and do not attend the program, a complete set of materials will be forwarded to you in consideration of the registration fee.



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ARE YOU A MEMBER OF THE NEW YORK STATE BAR ASSOCIATION? YES ☐ NO ☐

SEMINAR REGISTRATION Please enroll me in FEDERAL COURT PRACTICE. **Coursebook will be distributed at the program to program attendees and is included in registration fee.** NYSBA members \$65.00; Non-members \$90.00; Student members \$25.00. I will attend the program at:

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Mail to CLE Department, Federal Court Practice Program, New York State Bar Association, One Elk Street, Albany, New York 12207.

B C D E F G H I J K L M N N O P Q

FEDERAL COURT PRACTICE

Program Locations

Friday
March 29, 1985

ROCHESTER HILTON
175 Jefferson Road
Rochester, NY 14623
(716) 475-1910
(NYS Thruway Exit 46, then Route 252 West
off I-390 North)

Friday
April 19, 1985

NEW YORK PENTA HOTEL
(formerly the New York Statler)
401 Seventh Avenue at 33rd Street
New York, NY 10001
(212) 736-5000

Friday
May 3, 1985

AMERICANA INN
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Albany, NY 12211
(518) 869-8100



Cosponsored by the Committee on Federal Courts and the
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to other colleagues who may be interested in this program.

A-18730
HON. ROGER J MINER
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THE ATTORNEY GENERAL
WASHINGTON

7 May 1985

Dear Jerry:

Thank you for your kind letter of 25 February and for reminding me of your continued support for the appointment of Roger J. Miner to the United States Court of Appeals for the Second Circuit.

We have followed up on your suggestion, and have moved quite far toward a Presidential nomination of Judge Miner.

With best personal wishes,

Sincerely,



Edwin Meese III

The Honorable Gerald B. Solomon
United States House of Representatives
Washington, D.C. 20515

May 9, 1985

Hon. Roger J. Miner
U.S. District Judge - Northern District of N.Y.
Box 868, Albany, New York 12201

RECEIVED

MAY 21 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

Re: Our File : J.B.B. Personal

Dear Rog:

I noted the enclosed article in the New York Law Journal of May 6, 1985. In all probability, others have sent this to you already, but I just wanted to be sure you saw it.

I am looking forward to having you down here, even if it is only one week per month. Please give Jackie my very best.

Regards,


Jordan B. Bierman

JBB/mr

Encl: Copy of Article.

McCLUNG, PETERS, SIMON & ARENSBERG

ATTORNEYS AND COUNSELLORS AT LAW

41 STATE STREET

ALBANY, NEW YORK 12207

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May 7, 1985

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MAY 10 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

Hon. Roger J. Miner
U.S. District Court
U.S. Courthouse & Post Office
Albany, New York 12207

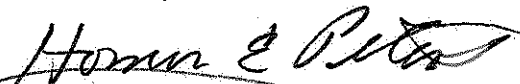
Dear Judge Miner:

Phil Arensberg told me today that it is now official that you have been elevated to the Second Circuit Court of Appeals. My heartiest congratulations to you.

This office is sorry to see you depart. Perhaps you could try something that I thought of when I was drafted back in 1942. I said at that time, "Hell, no, I won't go", but it did not work for me and I doubt if it would work for you.

However, there is one advantage and that is that you will now only be a step away from the Supreme Court.

Sincerely,



Homer E. Peters

HEP/mm

GERALD B. SOLOMON

MEMBER OF CONGRESS
24TH DISTRICT, NEW YORK
ROOM 227 CANNON BUILDING
WASHINGTON, D.C. 20515
(202) 225-5614

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(518) 587-9800

CHAIRMAN,
TASK FORCE ON NATIONAL
DEFENSE

Congress of the United States
House of Representatives
Washington, D.C. 20515

May 8, 1985

Hon. Roger Miner
R.D. 2, Box 110 E
Hudson, New York 12534

Dear Roger:

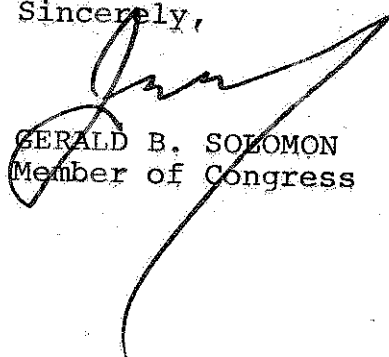
Enclosed is a copy of the letter sent to me by
Attorney General Edwin Meese.

Apparently after I talked to Ed last week he
must have come across my old letter on his desk.

I thought you would want this for the record.

Best wishes.

Sincerely,


GERALD B. SOLOMON
Member of Congress

GBS/ajf
Enclosure

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New York State Bar Association®

May 7, 1985

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MAY 9 - 1985

Honorable Roger J. Miner
United States District Court Judge
Northern District of New York
PO Box 950
Albany, NY 12201

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

Dear Judge Miner:

Thank you very much for helping to make our Federal Court Practice program so successful. I regret missing the Albany session but from all reports, the many registrants were very enthusiastic about the program.

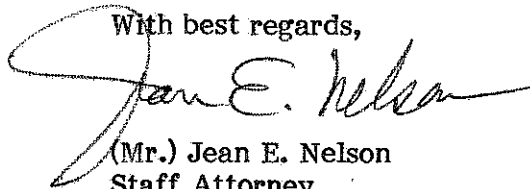
I am pleased to enclose with my letter two complimentary passes to our programs and a small token of appreciation for your service.

It would be a pleasure to work with you on future CLE programs when the opportunity arises.

If I may ever be of assistance to you on any Bar matter, please do not hesitate to contact me.

Thank you again for a wonderful job.

With best regards,



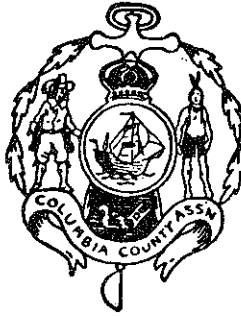
(Mr.) Jean E. Nelson
Staff Attorney
Continuing Legal Education

JEN:car
Enclosures



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**COLUMBIA COUNTY ASSOCIATION
IN THE CITY OF NEW YORK
(INCORPORATED 1902)**

**83RD
ANNIVERSARY DINNER
Gallagher's Restaurant
NEW YORK CITY
May 9, 1985**

COLUMBIA COUNTY ASSOCIATION
IN THE CITY OF NEW YORK
1985



President	Harold Silver	
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Secretary	James Campion	
Treasurer	Carl Florio	
Directors	Rupert Murdoch	Paul Zindell
	Raymond Kennedy	Jerome Brody
	Larry Novak	John Sharpe

— PROGRAM —

Invocation	Tom Koulos
Welcome	President Harold Silver
Award Presentation	Albert Callan
Guest Speaker	Richard J. Nicastro
	New York City Police Chief of Detectives
Report of Nominating Committee	Jim Campion
Treasurer's Report	Carl Florio

— MENU —

Iced Vichyssoise
Roast Prime Ribs of Blue Ribbon Beef
Baked Idaho Potato
Mixed Green Salad — House Dressing
Chocolate Mousse Cake with Whipped Cream
Coffee / Tea

Sheriff Paul Proper 1985 Columbia County Man Of The Year



Paul J. Proper, Sr., Sheriff of Columbia County, has been chosen 1985 man of the Year by Columbia County Association in the City of New York.

Sheriff Proper was born October 21, 1930 in North Egremont, Massachusetts, to the late Myron Proper and Olia Proper.

He graduated from Roeliff Jansen School in 1949, and entered the Armed Forces in January of 1951.

As a T/Sergeant with the Air Force, he spent 10 months in the Korean Conflict and was awarded the Bronze Star. He was honorably discharged from the Air Force in December of 1954, and then worked for the Town of Copake and Harder's Express until he joined the Columbia County Sheriff's Department as a deputy during 1961.

Proper worked his way up the ranks to County Investigator and then to Undersheriff in 1972, serving under the former Sheriff Frank Appleton. After an outstanding campaign for election, Proper

assumed the Office of Columbia County Sheriff on January 1, 1977, and has held that position after subsequent successful re-election campaigns.

Proper has attended the New York State Police Municipal Training School, Basic Police School, Supervisors School, Hostage Negotiations School, Civil Process School, F.B.I. Riot Control School, and New York State School for Sheriffs. He is an active member of the New York State Sheriffs' Association, serving on the Legislative Committee, as Treasurer, and currently as 3rd Vice President.

He is also chairman of the New York State Law Enforcement Telecommunications Committee. He has won numerous service awards from civic organizations.

Best known for his experience, dedication and temperament in dealing with the public, Sheriff Proper is very active in community affairs. He is a member of the Columbia County Police Association; Hillsdale Lodge No. 612, F & AM; Copake Fire Company No. 1; Hillsdale V.F.W.; Hudson Lions Club; Federation of Polish Sportsmen Club; Moose Lodge 1184; V.F.W.; and American Legion of Copake Falls.

Married to the former Marjorie Decker of Ancramdale, they have three sons and one daughter, and three grandchildren.

Chief Richard J. Nicastro was named Chief of Detectives by Police Commissioner Benjamin Ward on Friday, January 27, 1984. Chief Nicastro was elevated to his new three star post from Assistant Chief in charge of Staten Island, a position he had held since 1981 and from which he commanded all uniformed, investigative and emergency service personnel assigned to that borough, the only one utilizing the total service concept.

Chief Nicastro entered the department on December 19, 1947, and was promoted to Sergeant in 1957, Lieutenant in 1962, Captain in 1966, Deputy Inspector in 1972, Inspector in 1974, Deputy Chief in 1977, and Assistant Chief in 1981. Prior to his assignment in Staten Island he commanded the Manhattan Detective Area and his career has included various assignments in Patrol and the Detective Bureau.

Chief Nicastro has 38 years of service in the Police Department, 19 years in the Detective Bureau and 19 years in Patrol.

He lives with his wife Katherine, in Queens, New York and has four children, Richard, 32, Michael, 31, Mary Ann, 29, and Stephan 26, a New York City Police Officer.



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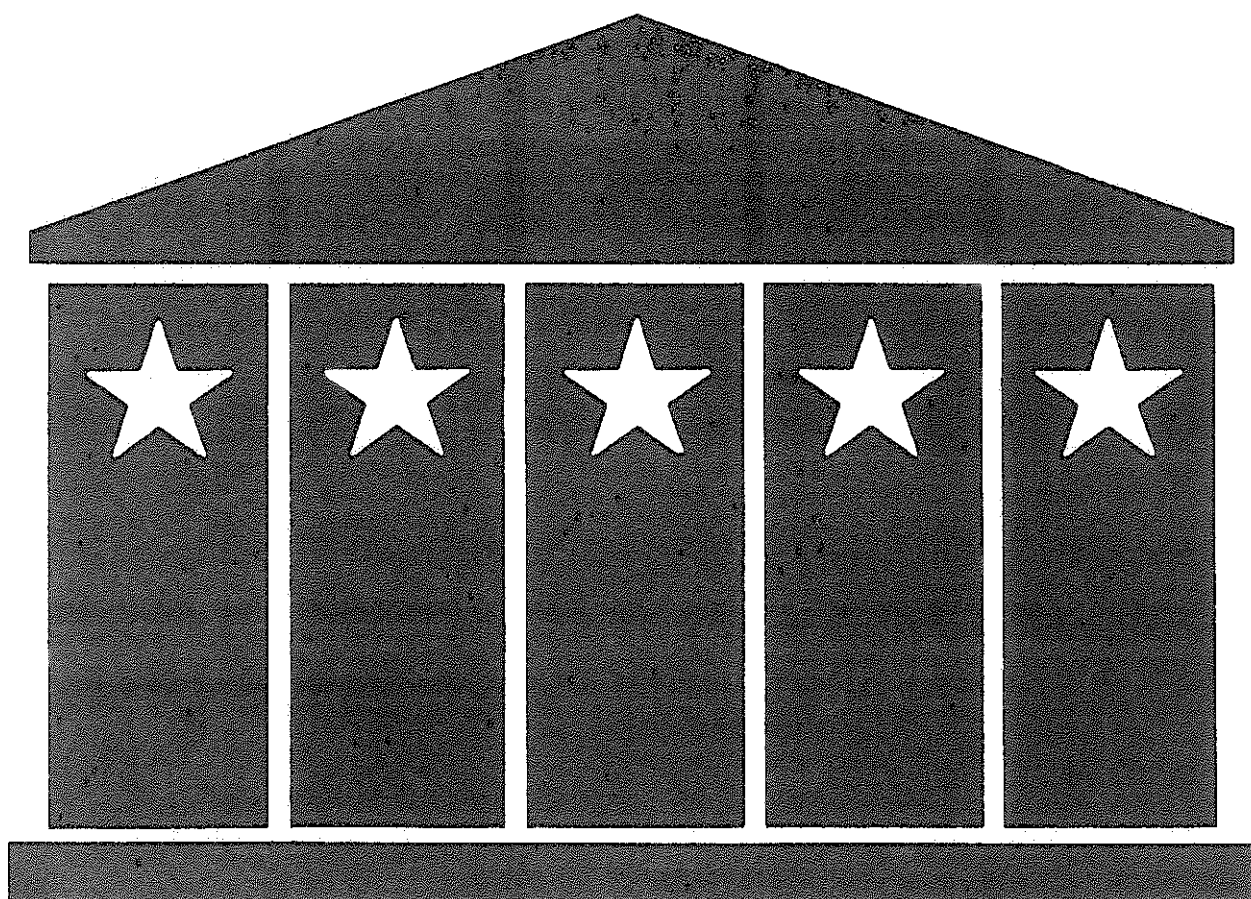
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**March 29, 1985
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May 3, 1985**

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Program Description

The Committee on Federal Courts and the Committee on Continuing Legal Education of the New York State Bar Association are pleased to offer this up-to-date, timely and traditionally popular day-long course on basic federal civil practice. This course will focus on practice and procedure in the federal district court and is designed to familiarize the general practitioner, general litigator or other attorney who has not had extensive exposure to the federal court system with the theory, practice and tactics of litigating civil matters in federal court.

Written materials, prepared by the faculty and other experienced federal litigators, will be distributed to each registrant.

In addition to discussing the theory and law of federal court practice, the speakers will offer helpful, practical tips and guidance on handling all aspects of a civil case in federal court, based upon their own respective experiences and favored tactics. The program is designed to provide practical "nuts and bolts" information and places particular emphasis on discovery. The faculty will highlight many of the differences between civil practice in state court and in the federal district court. Included within each speaker's scheduled speaking time will be the opportunity for panel discussion and audience questioning.

This course should be a valuable introduction for those without an extensive background in federal civil practice, but in addition, should be a useful review for more experienced practitioners who may want to brush up on their skills and knowledge.

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Program Chair and Speaker

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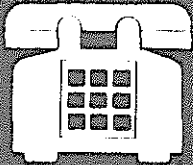
Program Agenda

8:30-9:00 a.m.	PROGRAM REGISTRATION (outside meeting room)
9:00-9:45	COMMENCEMENT OF THE ACTION (JURISDICTION, VENUE, PLEADINGS)
9:45-10:30	MOTION PRACTICE INCLUDING TEMPORARY RESTRAINING ORDERS AND ORDERS TO SHOW CAUSE
10:30-10:45	COFFEE BREAK
10:45-11:30	DISCOVERY — AN OVERVIEW
11:30-12:15 p.m.	DISCOVERY — DEPOSITIONS
12:15-1:30	LUNCH (on your own)
1:30-2:15	DISCOVERY — FROM THE PERSPECTIVE OF THE COURT; THE ROLE OF THE MAGISTRATE
2:15-3:00	CALENDAR PRACTICE AND PRE-TRIAL CONFERENCES
3:00-3:15	COFFEE/SOFT DRINK BREAK
3:15-4:15	TRIALS AND THE FEDERAL RULES OF EVIDENCE
4:15-5:00	APPEALS
5:00	ADJOURNMENT

Registration Information and Form

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FEDERAL COURT PRACTICE

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Hon. Roger J. Miner
United States District Judge
United States Court House
Post Office Box 950
Albany, New York 12201

Dear Judge Miner:

Thank you again for speaking at the Federal Court Practice program last Friday. Your presentation was interesting and thoughtful and I expect that it will contribute to improving the quality of practice in the Federal Courts in the Northern District of New York.

Both the New York State Bar Association and I are grateful to you for the time and efforts you devoted to making our program the substantial success that it was.

Respectfully yours,

Robert J. Haig

RLH/kmd

cc: Terence H. Benbow, Esq.

5/10/85 R.S.

Miner to hear bank fraud case

ALBANY, N.Y. (UPI) — A federal grand jury has indicted a Latham man charging him with defrauding two local banks of about \$10,000, said U.S. Attorney Frederick J. Scullin Jr.

The indictment Thursday charges Kenneth Duccini, 31, with defrauding Key Bank N.A. and Schenectady Trust Co. by depositing worthless checks in savings accounts and withdrawing money from the accounts at automated teller machines before the worthless checks bounced.

Duccini is scheduled to be arraigned before U.S. District Judge Roger J. Miner of Hudson May 17.

The incidents allegedly occurred this year between January and April.

According to Scullin, Duccini obtained approximately \$8,500 from Key Bank and about \$1,500 from Schenectady Trust through the scheme.

The grand jury charged Duccini with two counts of bank fraud and 22 counts of bank larceny. He faces a maximum sentence of five years on each bank fraud count and 10 years on each of the bank larceny counts.

NYLJ 5/13/85

Wachtler, U.S. Judges To Discuss I.C. System

A conference for Federal and state judges and lawyers on working with the individual-calendar assignment system will take place at 3:30 P.M. tomorrow at State Supreme Court, 60 Centre Street. It is sponsored by the State-Federal Judicial Council headed by Judge Judith S. Kaye, of the New York Court of Appeals, and Judge Richard J. Cardamone, of the U.S. Court of Appeals for the Second Circuit.

Among the speakers will be Chief Judge Sol Wachtler; Chief Judge Constance Baker Motley, of the U.S. District Court for the Southern District of New York; State Supreme Court Justices Albert M. Rosenblatt and Martin B. Stecher; and Judge Roger J. Miner, of the U.S. District Court for the Northern District of New York.

Judge Cardamone will moderate a panel discussion of the topic with Justices Rosenblatt and Stecher and Judges Motley and Miner. It will be followed by questions from those attending. Additional information may be obtained by telephoning Justice Edwin Kassoff at 718-520-3722 or Steven Flanders at 791-0977.

N. Y. LAW JOURNAL

N.Y.L.J. 5/16/85
**Federal, State
Judges Extol
I.C. System**

A panel of four judges on Tuesday extolled the virtues of the individual-calendar system to about 250 judges and lawyers in a third-floor courtroom at 60 Centre Street.

Two Federal judges on the panel, Charles L. Brieant, of the Southern District of New York, and ~~Roger J. Miner~~, of the Northern District of New York, portrayed the IC system as a more effective and cost-efficient system of case management that offers greater personal satisfaction and a sense of craftsmanship to judges than the master-calendar system now in use.

Suggestions Offered

Two State Supreme Court justices, Martin Stecher, of Manhattan, and Albert M. Rosenblatt, of Poughkeepsie, also spoke favorably of potential benefits of a change to the IC format, and offered suggestions as to how the system should be shaped to meet New York's special needs.

The forum was sponsored by the State-Federal Judicial Council, a body of judges appointed to share common concerns and reduce tensions between the two court systems. Both New York's Chief Judge Sol Wachtler and Chief Judge Wilfred Feinberg gave brief introductory remarks.

The forum took place against the backdrop of repeated statements by Judge Wachtler since he took office in January concerning his intention to shift the court system to the "cradle-to-grave" (IC) approach to case management.

In his remarks, Chief Judge Sol Wachtler said, while the commitment to convert to an individual assignment system has already been made, it is essential to retain the "flexibility" to determine how such a system "can be best worked into the existing format."

Among ideas being considered, Judge Wachtler said, are the formation of special parts to handle complex litigation or cases involving large-volume carriers, such as a Metropolitan Transit Authority part. Another proposal under consideration,

Continued on page 2, column 4

Continued from page 1, column 2

he said, would provide for a conference part to which cases would be sent after their initial assignments to judges. Those cases not disposed of in the conference part, he said, would be returned to the judge initially assigned to the case.

Judges Become 'Craftsmen'

"Experience shows," Judge Brieant said, that "with IAS more -- and better -- work is done with fewer judges." When a judge has a case from beginning to end he becomes a "craftsman" as opposed to an "assembly-line worker," Judge Brieant said.

He added that when judges have freedom to determine their calendars, they are "much more likely to deal with the backlog than continuing to churn along." The system is also less subject to the "the rehashing of the same motions," he said.

Statistics maintained in the Southern District, he said, support that view. For example, he pointed out, when the system was adopted twelve years ago, 23 percent of the district's cases had been pending for more than three years. Now, he said, that figure is down to 6.1 percent. Similarly, he reported, the number of pending cases was reduced by 35 percent during the first two years the IAS system was in operation.

Judge Miner presented a similar view of the success of the IAS system in the Northern District. In managing his own caseload, Judge Miner described the setting of firm deadlines as the key. He said he had also eliminated much of the delay caused by discovery motions by barring them and requiring that discovery problems be resolved in conference.

Cautionary Note

Justice Stecher recalled that the year he spent twelve years ago in an experimental individual-calendar part was the most "rewarding" and "satisfying" of his judicial career. However, he introduced a cautionary note, pointing out that if judges have caseloads of 1,000, six months of their time will be taken up with case management if they just spend one hour on each case.

Looking at the problem from that perspective, he said, the courts should recognize their limitations and that cases "may move more quickly without our intervention or lag behind because the lawyers are content with a slower pace." He added, "We cannot be everybody's policeman nor should we assume the responsibility to every litigant to see that his attorney is diligent."

The premium should not be on the disposition of large numbers of cases, he suggested, because many of those cases would have settled in any event without judicial intervention.

During his year in the experimen-

tal I.C. part, Justice Stecher described the importance given to numbers of dispositions for public relations purposes as becoming the "butt of judicial derision."

The pressure to demonstrate a high disposition level, he said, resulted in waste of time as many cases were called in for conferences which would have settled in any event and others were prematurely scheduled for conferences when there was no realistic hope for a settlement. As a consequence, he said, the older cases that really needed to be tried "simply gathered dust."

Justice Stecher also suggested the need for a pool of auxiliary judges available to insure that cases are tried when they are scheduled if the assigned judge is tied up with another matter. Similarly, he suggested, a redeployment of the staff currently assigned to motion parts to help judges with the increased management and motion responsibilities involved in an IAS system will be needed.

Justice Rosenblatt also made a number of suggestions as to procedural devices that may be employed more frequently to allow judges to cope efficiently with the caseloads they will have under an IAS system. Among the devices he suggested were greater resort to various forms of arbitration provided in the Civil Practice Law and Rules; adjudications upon stipulated facts; and the use of a simplified procedure to resolve matters without pleadings.

N.Y. Law Journal

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Dear Speakers at the New York State Bar Association
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The State Bar Association has prepared a compilation of the evaluation sheets returned by the members of the audience at the Federal Court Practice program in Albany. I enclose a copy of that compilation for your information. In the section at the bottom of the first page headed "Speaker Rating", I have photocopied for each of you the numerical "ratings" pertaining to you personally but have redacted the ratings relating to the other speakers.

You may also be interested in the enclosed copy of a letter I received from one member of the audience in Albany which contains a more succinct evaluation of the program.

Sincerely,

RLH/mah
Enclosures
cc: Terence H. Benbow, Esq.

Bob Haig

Program Title FEDERAL COURT PRACTICE Location ALBANY

Date 5/3/85 Total number attended _____ Number of evaluation sheets returned _____

Did program present information you wanted? mostly 52 partly 18 not at all 1

How would you rate overall usefulness of material? E 20 G 37 A 2 F _____ P _____

How would you rate administration of program? E 26 G 29 A 2 F _____ P _____

What is your overall evaluation of today's program? E 22 G 42 A 3 F 3 P _____

Number of Lawyers: 1-10 33 11-20 12 over 20 20

Years in practice: 1-10 51 11-20 9 over 20 18

Primary areas of interest:

Civil — 9
Federal Court — 8
Criminal — 3
Real Estate — 6
Litigation — 16
Insurance Defense — 1
Negligence — 5
Education Law — 3
Labor Law — 4
Appeals — 1

Corporate — 1
Estates — 2
Social Services Law — 2
Commercial Law — 1
Taxation — 1
Municipal — 2
Torts — 1
Business — 2
Administrative — 1
Personal Injury — 5

Products Liability — 1
Malpractice — 2
Matrimonial — 3
Prison Law — 1
Workers' Comp. — 1
General Practice — 5
Contracts — 1

Speaker Rating:

SPEAKER

CONTENT

ABILITY

HAIG E

DREYER E

FRIEDMAN E

JONES E

MINER E 38 G 17 A 1 F 0 P 0

SIEGEL E

SMITH E

QUINLAN E

E

E

E 44 G 12 A 0 F 0 P 0

Was the meeting place acceptable? Yes 60 No 4

Did you receive the brochure in time? Yes 59 No 3

Did the brochure accurately describe the program? Yes 61 No 0

What changes would you recommend if this program were presented again?

How can the course materials be improved?

Please give us your suggestions for new programs or programs you would like to see offered again.

Other comments and suggestions:

What Changes Would You Recommend If This Program Were Presented Again?

- Drop the deposition section, except for the exclusively federal actions.
- Too much covered in too little time. Good overview but by necessity too general.
- None. Fine program.
- Get a female attorney or magistrate on the panel — the profession is no longer all white males!
- None.
- Speakers Friedman & Quinlan should not return.
- A light show.
- The program was very basic. Not much in speeches for those with any federal court background.
- More attention to specific procedural or evidentiary questions.
- Delete the presentation on calendar practice and simply cover this in the brochure.
- A couple of the speakers only relayed the same information orally, that the course material contained. This should be avoided.
- More practical experience which gives insight into rules.
- More pleadings in outline.
- More interpretation - less academics that we know.
- I would eliminate Mr. Quinlan — he was boring and kept stating the obvious.
- None.
- Include workshops.
- Go into all aspects of commencing action including venue, subject matter jurisdiction, etc.
- Same topics should be more substance oriented.
- This was too simplistic — It was geared too much toward lawyers who never practice in federal courts.
- Deletion of Magistrates. Expansion of evidence discussion. Recognize that some practitioners do have federal court experience.

How Can The Course Materials Be Improved?

- More examples in appendices.
- Look good so far — the proof will be in the pudding.
- They were very good.
- Reflect the presentation of each and all speakers — not just select ones.
- At the beginning of each of the ten topics set forth in the overall table of contents, there should be a topic table of contents covering the particular topic.
- Unsure.
- Give them to us in advance so we can prepare for the seminar.
- Lacked pleadings i.e. S & C Answer, Interrogatories, Notice to Produce, etc.
- Have not had an opportunity to fully review them.
- Excellent as is.
- Include a "much" briefer "how to" manual with outlines of the specific lectures.
- Give forms of complaints, parties, etc.
- Mail brochure to attendees.
- Provide them before seminar.

Other Comments:

- Meeting room: Inside good — outside no, there is never ample parking at this place and no viable alternatives.
- Parking in the morning was terrible.
- Have coffee before!
- Parking problem.
- Excellent facility. I applaud the no smoking section. I'd like to see more information on how to begin a federal case — complaints, how specific must the complaint be as to statutes.
- Lunch should have been included as it was very inconvenient to leave the parking lot to find a place for lunch.
- Directions to meeting room not clearly set out.
- Room a little cold.
- Parking lot exit was terrible. (I left at lunch time and then returned).
- Nice place.
- Excellent.
- Location great — but insufficient seating and space to take notes. Further, questions of speakers were permitted, but questions could not be heard by all and, speaker, when responding, did not use microphone. Parking at location insufficient.
- If there are other programs, breaks should be staggered for use of phones, etc. Also need more parking.
- Very impressive location.
- Above average meeting room.
- Not enough parking at location.
- Parking and access not ideal; too few telephones.
- A few exceptions to overall excellence of program — Mr. Friedman constantly uses the word "he" when referring to lawyers and their adversaries. He should be more sensitive to the fact that the legal profession is no longer exclusively male. Magistrate Smith's reference to "lady lawyers" were extremely paternalistic — and should have been embarrassing to him, although I doubt they were. He prosecutorial bias was rather overwhelming. Ditto Mr. Jones! Ditto Mr. Dreyer! (Panelists should be gently reminded not to use sexist terminology).



FILE COPY

U.S. Department of Justice

United States Attorney
Northern District of New York

United States Courthouse and Post Office
Albany, New York 12207

518/472-3522
FTS/362-3522

May 17, 1985

P R E S S R E L E A S E

Frederick J. Scullin, Jr., United States Attorney for the Northern District of New York, announced that U.S. District Judge **Roger J. Miner** fined DR. ROBERT R. ENGISCH \$15,000, placed him on probation for two years and ordered him to make restitution to the United States of \$5,823 for filing false Medicare claims.

On April 12th, DR. ENGISCH, 54 of Oak Hill Farm, Williston, Vermont, pled guilty in United States District Court in Albany to three counts of filing false Medicare claims for nerve block injections which DR. ENGISCH has now admitted he never gave.

The charges accused DR. ENGISCH of submitting false claims to the United States Government for \$5,823 between 1979 and 1981 for the injections which he had claimed he administered to a number of Plattsburgh area patients. During those years, DR. ENGISCH had a medical office in Plattsburgh, New York as well as offices in Williston, Vermont and St. Albans, Vermont.

Judge Miner stated that the Medicare program is a good program and that it must be administered honestly. He also stated that he wants to send a message to others that those who file false Medicare claims will be treated harshly.

United States Attorney Frederick J. Scullin, Jr. stated that the sentencing of DR. ENGISCH concludes the first Medicare fraud prosecution of a physician in upstate New York. Scullin also stated that the Office of the Inspector General of the United States Department of Health and Human Services has increased the number of agents who will work in the upstate and central New York area, and he anticipates more indictments in the future of physicians and others who are found to be filing false Medicare claims.

Scullin stated that the case involving DR. ENGISCH was investigated by the Office of the Inspector General of the U.S. Department of Health and Human Services.

OK
DRH
5/17/95
11:45 a.m.

5/19/85
T.U.

Neurologist fined \$15,000 for fraud

A Vermont neurologist, who has also practiced in Plattsburgh, was fined \$15,000 in federal court in Albany Friday for Medicaid fraud and ordered to make restitution of \$5,823 by May 27.

Dr. Robert Engisch, 54, also was given three concurrent terms of one year in prison by Judge Roger J. Miner, but those terms were suspended and Engisch was placed on probation for two years.

Engisch is a resident of Williston, Vt., who has medical offices there and in St. Albans, Vt., and from March, 1970, until April, 1984, also had an office in Plattsburgh. He pleaded guilty to three counts of filing false Medicaid claims, which totalled \$3,655 for services for three Plattsburgh patients. He also admitted to Miner that he had made additional fraudulent claims, bringing the total to \$5,823.

Engisch was accused of submitting false claims for "root block" injections, which were described by Assistant U.S. Attorney Bernard Malone as anesthetic injections near nerve roots designed to ease pain.

Special Agent Bruno Varrano of the Office of the Inspector General in the U.S. Department of Health and Human Services, said the situation came to light when two patients were notified by Blue Shield that such claims had been paid and they then notified the agency they had not received the services.

"It's a mystery to me why this happened," Miner told the stocky, balding defendant. "You had no financial need. You had over \$100,000 in Medicaid payments alone in those years."

Miner said Medicaid is "a good program, but it is essential that it be administered honestly and fairly." As a professional, Engisch should have "known better," he said.

Trial of Hells Angels will be held in Syracuse

By Shirley Armstrong

Staff writer

T.U.
5-18-85

Nineteen members and associates of Troy and Binghamton chapters of the Hells Angels Motorcycle Club (HAMCC), charged with conspiracy to distribute various drugs, will be tried in Syracuse, it was learned Friday.

Assistant U.S. Attorney Gary Sharpe, in charge of the prosecution, said the decision to hold the proceeding in that part of the Northern New York District of federal court was made by Chief Judge Howard G. Munson of Syracuse, who will handle all further matters. No date has been set for the trial, which will presumably be preceded by numerous pre-trial motions.

James R. Northrup, U.S. Marshals Service chief deputy for the Northern District, said Friday he believes the Syracuse location will offer better security than in Albany because it affords internal access to the building. Northrup has been in charge of heavy security during the arraignment proceedings in Albany.

The crackdown on the Binghamton and Troy

Chapters, allied as the Mid-State Chapter, occurred May 2 as part of a nationwide roundup of Hells Angels and associates allegedly involved in drug trafficking.

Arraignments of the various area defendants on an indictment returned by a federal grand jury on May 10 continued Friday before Judge Roger Miner, but Troy Chapter President Martin "Tiny" Pulver was not brought in for appearance since he was not represented by counsel.

Pulver and other defendants, who are either in federal custody or not represented by counsel, will be arraigned Wednesday in Syracuse before Munson.

Albany attorney Dennis Schlenker, who said he has long been Pulver's attorney and represented him during a detention hearing before U.S. Magistrate Ralph W. Smith, said he and Pulver have made no decision on his being retained for this case. But, he said, "we may have to get a local counsel in Syracuse."

Advised that the trial will be held in that city, Schlenker said, "I am not moving my law firm, my house or my dogs to Syracuse."

Another Albany attorney, Terence L. Kindlon, who represented defendant Sandra Grieco at the time of a detention hearing, has withdrawn as her counsel. "I'm a single parent and I can't spend all that time out of town," he explained Friday.

Four other defendants were arraigned Friday and pleaded not guilty. They are James Lee "The Mayor" Farrigan of Cohoes, described by authorities as an associate of the Troy club members, detained without bail; William A. Grosso of Endwell, an associate of the Binghamton group, who remains free on \$50,000 bail; Jeffrey Adamek of Endicott, another Binghamton club associate, free on \$25,000 bail, and Maureen Pompey, also of Endwell and an associate, who remains free on \$20,000 bail.

Albany attorney Stephen Coffey, representing Farrigan, protested that various co-defendants named in the same indictment are incarcerated in different jails and said his client should be allowed to communicate with the others to coordinate their defense.

Miner has set next Friday for the return of motions by the defendants before Munson in Albany.

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

CHAMBERS OF
RICHARD J. CARDAMONE
CIRCUIT JUDGE

May 21, 1985

RECEIVED

MAY 24 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

Hon. Roger J. Miner
United States District Court
Northern District of New York
U.S. Post Office and Courthouse
445 Broadway
Albany, NY 12201

Dear Roger:

Many thanks for your efforts as a panelist
at the Individual Assignment System Conference
last week. You did an outstanding job.

Warm regards,

Rich
Richard J. Cardamone
United States Circuit Judge

RJC:lpd

3 of 10 plead not guilty to federal drug charges

Three of 10 state workers facing federal charges stemming from an alleged cocaine distribution ring pleaded not guilty Friday in U.S. District Court in Albany. T.C. year 5-23-85

for the Thruway Authority, and an agreement by the defense attorneys, the district attorney and the U.S. attorney's office. Judge Roger J. Miner allowed those sums to cover federal charges as well.

Denying charges of conspiracy and using a telephone to operate a cocaine distribution ring were Antonio Young, executive assistant to the director of the state Division for Youth, who earns \$39,000 a year; Frederico Manon, a \$36,000-a-

year affirmative action director for the Thruway Authority, and Manon's wife, Carmen Manon, who earns \$15,000 a year as a stenographer in the Division for Youth.

Bail was set at \$25,000 for Young, who was expected to post bond later Friday.

The Manons already were free on \$25,000 bail each, set in Albany County Court, where state charges are pending against them. Under

The seven other defendants in the federal case were arraigned Thursday. The 10 are among 14 state employees arrested May 3 on state charges of selling or possession cocaine. Charges against three have since been dismissed.

Miner hands drug kingpin 15-year sentence

ALBANY, N.Y. (AP) — U.S. District Court Judge Roger J. Miner sentenced "Fritz the Cat" producer Robert Sterling to 15 years in federal prison Friday in connection with a \$45 million marijuana and hashish operation.

The 40-year-old producer of the X-rated cartoon had pleaded guilty to one charge of conspiracy to distribute marijuana and hashish in excess of 1,000 pounds, said Assistant U.S. Attorney John McCann.

"It appears you were the kingpin of a

multimillion-dollar drug operation of mind-boggling dimensions, at least in this district," Sterling was told by Judge Miner, who is considered likely to be appointed to the U.S. Court of Appeals soon.

McCann said Sterling's organization distributed marijuana and hashish up and down the East Coast.

The government recovered \$5 million in land and assets in the case and confiscated \$7 million worth of drugs, McCann said.

Trial testimony revealed that Sterling

participated in a drug distribution network which was cited as one of the largest of its kind in the country.

The network was smashed after a four-year investigation following an August 1980 fire at a storage facility in Catskill where troopers found 3,500 pounds of marijuana.

Also involved in the case was Carolyn Harris, 47, of Boston. Described by McCann as Sterling's former girlfriend, she was said to have transported money to Swiss banks. She was sentenced to

four years in jail for conspiracy to distribute and importation.

Vincent D'Antonio, 42, of New York City, faces sentencing on related drug and income tax evasion charges.

Raymond San Pedro, 39, of New York City, is to be sentenced on charges of distributing hashish.

Kevin Leap, 32, of Forestburg, faces sentencing on income tax evasion charges.

Eight others involved in the same case were also sentenced Friday.

14 sentenced for role in international drug ring

By Shirley Armstrong

Staff writer

Robert Sterling, 41, of Queens County, described by Federal Judge Roger J. Miner as "the kingpin of a multimillion-dollar marijuana ring of mind-boggling dimensions," was sentenced Friday in Albany to 15 years in prison, to be served concurrently with a 40-year term he already is serving.

Sterling and 13 other members of the international smuggling ring that imported multiton quantities of hashish and marijuana throughout the eastern and central United States from 1978-80 were sentenced by Miner to prison terms and in some instances fines and/or special two-year parole terms. They had pleaded guilty to various charges.

Except for Sterling, the defendants drew terms of incarceration ranging from a year and

a day to five years. Fines ranged from \$2,000 to \$20,000.

Assistant U.S. Attorney John McCann said all 14 had "cooperated" with the government and all had agreed to testify against other defendants.

Sterling, producer of the X-rated cartoon, *Fritz the Cat*, is confined to a federal prison for 40 years, without parole, for a conviction in Tacoma, Wash., three years ago, after he brought a shipload of marijuana into that state.

Among those sentenced was Robert Pendergrass, 33, of Jessup, Ga., who Miner said operated the stash house in Catskill where a fire Aug. 18, 1980, "was the beginning of the end for the organization."

State Police seized 3,500 pounds of hashish as a result of the blaze, and a subsequent investigation led to the arrests of 50 people across the country, including 38 in the Northern

District of New York. Authorities said about \$7 million in marijuana and hashish and about \$5 million in assets and property of the organization have been seized.

Pendergrass was sentenced to three years in prison and a \$5,000 fine.

Only one area person was named in the Sterling indictment. Victor Lindbergh, a former Rensselaer restaurant owner, disappeared in November 1981 after being called to testify before a grand jury in Syracuse. He has not surfaced.

Among those sentenced Friday were:

● Carolyn Harris, 47, of Waban, Mass., described by Miner as "the right hand of Robert Sterling," who "carried hashish and marijuana to Switzerland, Liechtenstein and the Bahamas." He said Harris was "a woman of promise, talent and ability, but somewhere you

went off the track." She was sentenced to four years in prison.

● Kevin Kelly, 31, of Westchester County, who Miner termed "a quality control inspector for the organization." He noted that Kelly had made "several trips to Colombia to inspect the product," that "a companion was killed suspiciously and you were detained there." Sentencing Kelly to three years in prison, Miner said, "you were right up to your nose in this."

● Lynn Cloud, also known as Lyndon Cloud, 36, of Savannah, Ga., who was said to have become involved in the conspiracy to obtain "money to get a sex-change operation."

Miner said he was aware of the Cloud's personal problems, "but they do not justify criminal activity." He sentenced Cloud to three years in prison.

Five defendants remain to be sentenced next Friday.

TROY TIMES RECORD - Friday, March 22, 1985 - For Judge Miner - JAT

Officer: Second suspect identification, for their sake

By ERNIE ARICO
Staff Reporter

ALBANY — Ptl. Allen J. McNall said Thursday he wanted to be certain the two former Rensselaer Polytechnic Institute students in custody were the suspects accused of raping a Troy woman.

"I decided to bring them up to the hospital for a second identification because I wanted to make sure for their sake," said McNall, a seven-year veteran of the Troy Police Department, to a U.S. District Court jury.

Randy S. Muth, 24, and Glenn S. Schultz, 23, have accused police officials of assault, battery, false arrest, malicious prosecution and violation of their civil rights. The two men

are seeking \$7 million in damages in a civil rights suit against the City of Troy and Ptl. Joseph J. Burns, Kenneth J. Casey and McNall.

The plaintiffs are seeking \$2.5 million each in compensatory damages from the city and \$1 million in punitive damages from the three officers.

Muth and Schultz were charged with first-degree rape, a felony, on Aug. 30, 1980, after the alleged victim identified them to police at the Spring Lounge Restaurant and later at St. Mary's Hospital.

Troy Police Court Judge Edward O. Spain ruled there was sufficient evidence to hold the pair for grand jury action, but on Sept. 24, 1980, a Rensselaer County grand jury refused to indict them.

McNall testified he was in a

patrol car with Casey at about 3:50 a.m. when a call came over the police radio about a reported rape in the Spring Lounge area.

A later report described the two suspects. "The description said they were two white males. One was tall and heavy set, and the other was short and thin," McNall said. "The heavy-set suspect was wearing light pants and a dark shirt, and the shorter suspect was wearing a plaid shirt and blue jeans."

McNall said that minutes later he saw two men matching that description walking up Spring Avenue. "We veered the car and came right at them, stopping about 20 feet in front of them."

During direct examination by Salvatore D. Ferlazzo, Schultz'

attorney, McNall said he got out of the car, pointed a gun at them and said, "Hold it, fellas."

McNall denied threatening the pair. He also denied saying "he would blow their heads off" or that he pushed them against the cruiser.

McNall testified that the alleged victim, then inside the lounge, identified Muth. Then McNall read him his rights. "I was satisfied that she looked at him and identified him."

He further testified he felt Muth understood his rights and that he suggested the former student not give a statement.

Muth told him he had been at a Third Street bar and was walking home to his fraternity house on Pawling Avenue when police stopped him.

McNall testified that the

woman was "fairly calm" and "not intoxicated" when he brought Muth to the hospital to be identified a second time. He denied telling the woman these were the same two men identified in the Spring Lounge.

The patrolman is scheduled to return to the stand Monday before U.S. District Court Judge Roger Miner.

Muth, of Patterson, N.J., graduated from RPI in 1982. He testified that at the hospital, the woman seemed reluctant to look at him.

"She said, 'Get him out of here, get him out of here. I don't want to see anybody.' Then she glanced at me and said, 'That's him. Yes, that's him. Get him out of here.' I honestly don't think she really looked at me."

Muth also testified he told

police he had no explanation how he got a red mark in the groin area.

Also testifying Thursday was Howard LaBounty Jr. of Troy.

LaBounty, doorman at the Landmark Pub on Second Street on Aug. 29-30, 1980, testified he saw the woman leave the bar shortly after midnight with an unidentified man. "She walked out wobbly and got into this man's maroon Ford car," LaBounty said the woman appeared intoxicated to him because she had placed her head on one of the bar tables.

Under cross-examination, LaBounty said he was never asked to testify at the preliminary hearing or asked to give any information he knew about the case to police.

Nelson A. Rockefeller College of Public Affairs and Policy

The Nelson A. Rockefeller College of Public Affairs and Policy was established as a separate unit of the State University of New York at Albany in 1981. The college is comprised of three graduate schools: the Graduate School of Public Affairs, the School of Criminal Justice, and the School of Social Welfare. The college has assembled a distinguished faculty with a unifying concern of providing research on, assistance to, and education for the policy-making process in the public sector.

The College's location in Albany, site of the nation's largest government center outside of Washington, D.C., provides an ideal setting for the study and practice of public management. Rockefeller College is served by the Graduate Library of Public Affairs and Policy, an extensive collection of public affairs materials. The nearby New York State Library maintains a reference collection of over three million volumes of books, pamphlets, and manuscripts with special strengths in law, social sciences, education, and technology.

Albany is served by major airlines connecting to all cities of the Northeast. It is also served by frequent Amtrak turbo-train service from New York City (travel time is approximately two hours). Located at the junction of major north-south and east-west interstate highways, Albany can be reached by automobile from New York City in two hours, Boston in three hours, and from as far away as Washington, D.C., in slightly more than six hours.

Nelson A. Rockefeller
College of Public Affairs and Policy

Summer 1985 Program in

Court Systems Management

State University
of New York
at Albany



Court Systems Management at Rockefeller College

The Court Systems Management Program at Rockefeller College of the State University of New York at Albany provides both in-service and traditional graduate training in court management, and serves as a center for research and technical assistance in judicial administration. The program is tied directly to the academic programs and faculty of Rockefeller College. Its courses are graduate-level seminars, taught by recognized specialists, designed to provide students with both the theory and the practical application of management principles in the court environment. The interaction of practitioners from different court systems, and of traditional full-time graduate students with working professionals, provides an ideal environment for challenging assumptions, honing management skills, and for intellectual growth.

The participation of court professionals in the Court Systems Management Program is facilitated by a special intensive class format utilized in many CSM courses. These courses are regular four-credit graduate seminars made up of two modules, each consisting of three full days of lectures, discussions, and group work. The modules are separated by an intersession period of two weeks. Students work on independent projects and readings before and after each module. This format allows court practitioners to take challenging graduate courses in judicial administration while minimizing disruption to their work schedules. CSM courses offered in the summer are scheduled in tandem so that it is possible to enroll in both a regular graduate course and a skills-oriented workshop held on the days immediately before the course modules. Thus only two trips to Albany are necessary for out-of-town participants to complete a full four-credit graduate seminar and a two-credit workshop.

Practitioners enrolled in Court Systems Management courses can pursue a graduate certificate in public management specifically designed for the working professional in the public sector; certificate requirements can usually be completed by taking intensive-format CSM courses and workshops over three summers. Most courses

taken in the certificate program may also be applied toward a Masters of Public Administration degree.

Future offerings in the summer program will include the following courses: Administrative Environment of Court Management, Public Budgeting, Public Personnel Administration. Workshops are planned on such topics as executive skills development, jury management, use of micro-computers in the courts.

Courses Summer 1985

Legal Environment of Court Management

One of the core courses in the Court Systems Management curriculum, this course examines the legal context of the courts. The primary focus of the course will be on legal procedure — the stages in the litigation process for both civil and criminal cases and the legal requirements governing various aspects of case processing. The course will also examine current issues in legal procedure, such as the concern over abuse in discovery and proposals to modify the voir dire process in jury selection. Course materials will consist of books, articles and court cases. Instructor: Hon. Roger Miner, United States District Judge for the Northern District of New York.

Organizational Behavior

This course introduces students to key elements in structuring and managing complex organizations, with particular emphasis on the problems encountered by professional administrators in the judicial system. The course is problem oriented, with extensive use of case studies. The objectives of the course are to help students gain familiarity with basic organizational concepts, increase their understanding of key processes in organizational life, and develop their analytical skills pertaining to the implementation of planned change. Instructor: Dr. Joseph Viteritti.

Evaluation of Public Sector Programs

Program evaluation and analysis is the focus of this course. Special emphasis is given to evaluation

designs and how they are modified in practice, the relationship of evaluation research to program planning and development, and the uses of evaluation results. Students will work on special projects involving evaluation of court reform efforts. Instructor: Dr. Carolyn Ban

Workshop on Information Systems in the Courts

This workshop will focus on the design and implementation of information systems in the courts. The workshop will examine basic principles of information management and the application of those principles in the court environment. Systems for producing both day-to-day operational information and information for managing the court will be discussed. While emphasis will be given to the design and operation of automated information systems (including exercises using data base management systems on micro-computers), manual systems will be examined as well. Instructors: Drs. James Heaphey and Ronald Stout, Jr.

Faculty

Faculty for courses in the Court Systems Management Program are drawn both from Rockefeller College and from a national pool of experts in the area of judicial administration and court management.

Thomas Church is director of the Court Systems Management Program and is associate professor of political science at Rockefeller College. He has written extensively in the areas of court delay and case management. In addition to academic appointments, he directed two national scope research projects for the National Center for State Courts (authoring the study, *Justice Delayed*), served as director of the London Office of the Vera Institute of Justice, and was Assistant Circuit Executive for Court Management for the Federal Courts of the Ninth Circuit.

Carl Baar is director of the Judicial Administration Program at Brock University, Ontario. Dr. Baar is author of *Separate But Unequal*, the leading book on the subject of court budgeting and regularly teaches budgeting courses for the Institute for Court Management.

Carolyn Ban is assistant professor of public administration, specializing in public personnel administration and program evaluation. Dr. Ban headed an evaluation unit in the U. S. Office of Personnel Administration. She serves as Director of Rockefeller College's Evaluation Research Group.

Steven Flanders is Circuit Executive for the Federal Courts of the Second Circuit. Dr. Flanders was formerly a senior researcher with the Federal Judicial Center, a position in which he authored the influential study, *Case Management and Court Management in the U.S. District Courts*.

James Heaphey is professor of public administration in Rockefeller College where his specialty is management information systems.

Ronald Hoskins is assistant professor in the Department of Public Administration at Rockefeller College. He brings to the program extensive experience in public budgeting at both the state and federal levels.

Judge Roger Miner is U.S. District Judge for the Northern District of New York. Formerly a Justice of the New York Supreme Court, Judge Minor will teach the Legal Environment of Court Management in the summer of 1985.

Ronald Stout, Jr. is Director of Research and Special Projects for the New York State Office of Court Administration. Dr. Stout has been responsible over the past two years for installing automated information systems in courts throughout New York State.

Joseph Viteritti is adjunct associate professor of public administration at Rockefeller College. He has served in a number of positions in state and local government and as a consultant on management and organizational development for the New York City Police Department, the New York City Public School System, and the New York City Human Resources Administration.

Stephen Wasby is professor of political science at Rockefeller College. He has written widely on the American judicial process, and has conducted studies on appellate court practices and delay.

1985 Schedule

**Legal Environment of Court Management
Organizational Behavior**

Evaluation of Public Sector Programs

Module 1: July 11-13

Module 2: August 1-3

Workshop on Court Information Systems

Module 1: July 8-10

Module 2: July 29-31

**Educational and
Housing Costs**

The instructional fee for each course is \$410; for the workshop, \$360. These fees cover all educational expenses, including books, computer use, and instructional materials.

Housing is available in university dormitories and meals may be purchased through the university food service. The approximate costs for all meals and lodging in a double occupancy dormitory room is \$210 for each course. Single rooms are available at additional charge. Hotel accommodations adjacent to the campus are also available. Additional information will be furnished upon request.

Admission Procedures

To enroll in courses, send the attached registration form with a check, money order or government voucher by June 1, 1985, to the address indicated.

For further information regarding the program, contact: Thomas W. Church, Director, Court Systems Management Program, Rockefeller College, State University of New York at Albany, 135 Western Avenue, Albany, NY 12222 (Tel 518-455-6285)

— or —

Sydney Gatto, Director of External Academic Programs, Graduate School of Public Affairs, State University of New York at Albany, 135 Western Avenue, Albany, NY 12222 (Tel 518-455-6201).

Registration Form

Court Systems Management Program, Summer 1985

Name _____

Position _____

Office Address _____

Telephone _____

Home Address _____

Telephone _____

Please send additional program information to my
_____ Home Address _____ Office Address _____

Please enroll me for:
_____ Legal Environment of Court Management
_____ Organizational Behavior
_____ Evaluation of Public Sector Programs
_____ Workshop on Court Information Systems

_____ Please send me additional information on housing.

Accompanying this registration form is a check or voucher for \$_____ to cover tuition.

Mail by June 1, 1985 to:
Court Systems Management Program
Rockefeller College of Public Affairs and Policy
State University of New York at Albany
135 Western Avenue
Albany, NY 12222

UNITED STATES DISTRICT COURT

Northern District of New York

ALBANY, NEW YORK 12201

CHAMBERS OF
Judge Roger J. Miner

May 31, 1985

Professor Thomas W. Church
State University of New York
at Albany
Department of Political Science
135 Washington Avenue
Albany, New York 12222

Dear Tom:

I enclose the syllabus for my course and hope that it is satisfactory. The original is not stapled together in order that you may use it for photocopying purposes. Please let me know if you have any questions.

Yours very truly,

RJM/sjh
Encs.

Roger J. Miner

SYLLABUS

LEGAL ENVIRONMENT OF COURT MANAGEMENT

Instructor: Judge Roger J. Miner

Course Description: This course will examine the legal context in which the courts operate. The primary focus will be on legal procedure - the stages of the litigation process for both civil and criminal cases and the legal requirements governing various aspects of case processing. Current procedural issues and proposals will be examined.

Schedule of Classes: July 11-13, 1985 (Module 1)
August 1-3, 1985 (Module 2)

Papers: A paper must be prepared for submission on the first day of Module 1. This paper should discuss the procedural steps leading to trial in civil litigation, identify those procedures most likely to cause delay and briefly review some proposals for procedural reforms in pre-trial proceedings.

A second paper must be prepared for submission on the first day of Module 2. This paper should discuss the nature and functions of a grand jury - how it is constituted, the manner in which it receives evidence and the procedures employed in its proceedings. Reasoned opinions either supporting or opposing proposals to abolish grand juries should be given.

No paper shall exceed five to six typewritten pages in length.

Grades: The final grade will be computed on a weighted average as follows: papers - 40% (20% each); class participation - 10%; final exam - 50%. The final exam will consist of three essay questions to be given at the end of Module 2. One hour will be allowed to answer each question. A grading curve will not be applied.

MODULE 1

Required Readings (to be completed before first class):

Books: An Introduction to the Legal System of the United States,
Second Edition, by E. Allan Farnsworth (Oceana
Publications)
Civil Procedure in a Nutshell, by Mary Kay Kane (West
Publishing Co. 1979)

Monographs: Conduct of the Voir Dire Examination:
Practices and Opinions of Federal District Judges,
by Gordon Bermant (Federal Judicial Center 1977)
Asbestos Case Management: Pretrial and Trial
Procedures, by Thomas E. Willging (Federal Judicial
Center 1985)
Litigation in America, Second Printing (reprinted
from vol 31, no. 1, UCLA Law Review October 1983)

Articles: Confronting Juror Bias: A Behavioral Science
Perspective, by Dr. Donald E. Vinson (For the Defense
March 1985)
Deterring and Defeating Frivolous and Abusive
Litigation, by Ronald L. Olson and Stephen J.
McConnell (For the Defense January 1985)
Unsettling Issues About Settling Civil Litigation, by
Howard Bedlin and Paul Nejelski (Judicature, vol. 68,
no. 1 June-July 1984)
What the Public Can Expect, by Robert B. McKay
(Judge's Journal)

Court Papers: Pre-trial Orders Nos. 1 and 2, (Civil Jury and
Non-Jury), by Roger J. Miner, U.S. District Judge

Topic Outline: Law and the Judicial System (Part A)
Civil Procedure (Part B)

Part A: Law and the Judicial System

I. Sources of Law

- ✓(a) Federal and state constitutions
- ✓(b) Common law - JUDGE MADE LAW
- ✓(c) Statutes - INT. of (DECISION)
- ✓(d) Rules of court - procedural
- ✓(e) Finding the sources

II. Categories of Law

- ✓(a) Law and equity
- ✓(b) Public and private
- ✓(c) Civil and criminal

- ✓(d) Substantive and procedural
- ✓(e) Classifications of substantive law

Includes rule of Evidence

III. Organization of the Judicial System

- ✓(a) Historical background
- ✓(b) State and federal courts
- ✓(c) Selection and qualification of judges
- ✓(d) Responsibilities of judges, lawyers and litigants

Part B: Civil Procedure

I. Jurisdiction of the courts, commencement of the action and other preliminary considerations

- ✓(a) Subject matter jurisdiction
- ✓(b) Personal jurisdiction
- ✓(c) Service of process
- (d) Venue
- (e) Statutes of limitation

II. Pleadings and Parties

- (a) General theories
- (b) Complaint, answer, counterclaim and reply
- (c) Joinder of parties
- (d) Impleader
- (e) Intervenor

III. Discovery

- (a) Purposes
- (b) Procedural devices
- (c) Discoverable and non-discoverable information
- (d) Resolving discovery disputes
- (e) Controlling the abuses of discovery

IV. Accelerated Judgment

- (a) Failure to state a claim
- (b) Judgment on the pleadings
- (c) Summary judgment
- (d) Failure to prosecute
- (e) Judgment by default
- (f) Voluntary dismissal

V. Trials

- (a) Calendar practice and pre-trial submissions
- (b) Jury and non-jury; joint and consolidated
- (c) Selection of jury (voir dire)
- (d) Trial procedure
- (e) Rules of evidence
- (f) Verdict or decision

VI. Appeals

- (a) Finality rule
- (b) Treatment of factual determinations
- (c) Mechanics of appeal and cross-appeal
- (d) Oral argument
- (e) Powers of appeals courts

VII. Dealing with delay

- (a) Scheduling orders
- (b) Sanctions for pre-trial delay
- (c) Incentives to settle
- (d) Penalties for "brinksmanship"

VIII. Frivolous litigation

- (a) Defined
- (b) Identification at early stages
- (c) Sanctions for frivolous litigation
- (d) Proposals to curb abuse

IX. Alternate Means of Dispute Resolution (ADR)

- (a) Perceived need for ADR - expense, delay and judicial overload in civil litigation
- (b) Arbitration
- (c) Summary jury trials
- (d) Mediation
- (e) Mini-trials
- (f) Other proposals

X. Complex, Protracted and Repetitive Litigation

- (a) Class actions
- (b) Interpleader
- (c) Multi-district litigation in federal courts
- (d) Jury or non-jury
- (e) Management of asbestos cases

MODULE 2

Required Readings (to be completed before first class):

Book: Criminal Procedure in a Nutshell - Constitutional Limitations, by Israel and LaFave
(West Publishing Co. 1980)

Manual: Federal Criminal Practice Manual
(Admin. Office of the U.S. Courts 1977)

Court Papers: Pretrial Order for Criminal Cases, by
Roger J. Miner, U.S. District Judge

Topic Outline: Procedure in Criminal Prosecutions (Part C)

Part C: Procedure in Criminal Prosecutions

I. Classification of Offenses and Initiation of Prosecution

- (a) Felonies, misdemeanors and petty offenses
- (b) Indictment, information and complaint
- (c) Arrest warrant, summons, citation

II. Initial Appearance and Bail

- (a) Advice of rights
- (b) Purpose of bail
- (c) Types of bail
- (d) Bail hearings and appeals
- (e) The Federal Bail Reform Act of 1984

III. Right to Counsel

- (a) When it attaches
- (b) Proceedings to which it applies
- (c) Indigent defendants
- (d) Waiver
- (e) Effective assistance

IV. Preliminary Examination

- (a) Purpose
- (b) Time constraints
- (c) Admissible evidence
- (d) Effect of indictment

XII. Trial

- (a) Order of proof; rules of evidence
- (b) Burdens and presumptions
- (c) Openings, arguments and instructions
- (d) Jury and non-jury
- (e) Motion for judgment of acquittal
- (f) Verdict

XIII. Sentence

- (a) Procedure
- (b) Pre-sentence report
- (c) Suspended sentence and probation
- (d) Fines
- (e) Restitution
- (f) Imprisonment and parole

XIV. Appeals

- (a) Time for appeal
- (b) How appeal is taken
- (c) What may be reviewed
- (d) Standards of review
- (e) Disposition

XV. Post-conviction Remedies

- (a) Motions for new trial
- (b) Habeas corpus
- (c) Coram nobis
- (d) Restrictions on collateral attack

Hospital technician guilty of phone use

T.O. 6-1-85
A suspended Albany Medical Center Hospital technician, who had been charged with attempting to manufacture a controlled substance, pleaded guilty in Federal Court Friday to two lesser charges of using a telephone to facilitate drug-making.

Walter F. Kemp, 28, of 4 Balsam Ave., Troy, and his wife, Maureen, 27, a clerk at Rensselaer Polytechnic Institute in Troy, were arrested April 9 but the charge against the woman has been dropped, said Assistant U.S. Attorney George A. Yanthis.

Kemp told Judge Roger J. Miner that on Feb. 14 and April 4 he used a phone to place orders with laboratories in Albany for various chemicals used

in the manufacture of Phenyl-2-Propanone. Known on the street as P2P, the drug is related to methamphetamine (speed).

Sentencing was set for June 28, when Kemp could be given a maximum of eight years in prison and a \$60,000 fine. In the interim, he remains free on \$25,000 bail.

Elmer Streeter, spokesman for Albany Medical Center, said Kemp is a "long time" employee and has served as a technician in the respiratory therapy lab. He said Kemp was suspended immediately after his arrest, pending the outcome of the case.

Yanthis said the arrest stemmed

from a probe by the Drug Enforcement Administration, which routinely monitors sales of various chemicals and investigates when it appears that materials which could be combined to make controlled substances are being obtained.

A search warrant was issued and, officials said, they found "a substantial quantity of laboratory apparatus and numerous quantities of raw materials for producing various types of amphetamines" in the Kemp residence.

Yanthis said there is no indication that any controlled substances were actually produced or sold or that any of the laboratory apparatus in the house belonged to the medical center.

KN 6/1/85 Troy man faces drug sentencing

A Troy man will be sentenced June 28 after pleading guilty to two charges of using a telephone to facilitate drug-making.

Walter F. Kemp, 28, of Balsam Avenue, who was suspended from his technician job at the Albany Medical Center Hospital after his arrest, pleaded guilty in federal court Friday. He had been charged with attempting to manufacture a controlled substance when arrested April 9.

Kemp told Judge Roger J. Miner he used a phone Feb. 14 and April 4 to place orders with local laboratories for various chemicals used to produce phenyl-2-propanone, also known as P2P.

Kemp's wife Maureen, 27, had also been arrested, but the charge against her was dropped. Kemp, who could be sentenced to up to eight years in prison and a \$60,000 fine, is free on \$25,000 bail pending sentencing.

Man pleads guilty in child porn case

By Shirley Armstrong

Staff writer

Schoharie County farmer Charles Reinhart, 41, pleaded guilty in Federal Court in Albany Friday to receiving child pornography magazines in the mail.

Reinhart, who lives with his mother in a rural area near Middleburgh, had also been charged with possession of a semiautomatic machine gun.

Assistant U.S. Attorney Bernard J. Malone, Jr., said that charge will be dismissed as part of a plea bargain.

Appearing before Judge Roger J. Miner, the slightly built defendant admitted that he received kiddie porn magazines from Holland.

Malone said two envelopes containing sexually explicit material and addressed to Reinhart were intercepted by U.S. Customs officials, then resealed and sent to Reinhart's home by mail.

The day after they were delivered on March 28, Malone said, officers of the Postal Service, U.S. Customs and State Police searched the farmhouse, using a warrant issued by U.S. Magistrate Ralph W. Smith. Malone said they found the magazines, together with "a quantity of other material."

Malone said Jack Davies of Albany examined photos in the magazines and gave the opinion that the young people depicted in various sex acts were under 18 years off age — probably between 12 and 14.

At the time of the arrest, officials said they seized several hundred child pornography magazines, hundreds of child pornography movies and kiddie porn photographs.

Also seized were rifles, knives, smoke grenades and several thousand rounds of ammunition. Officials said Reinhart was apparently a survivalist who had collected those items for protection in event of nuclear attack. None of the weapons required a permit, officials said, except for an Uzi semi-automatic sub machine gun, which Reinhart was charged with possessing illegally.

Reinhart will be sentenced on June 28. He faces a possible maximum of 10 years in prison and a fine of \$100,000.

The defendant remains free on \$50,000 bail.

In other cases before Miner

● Denise Ann Garland, 23, of Mechanicville, who had admitted to a misapplication of bank funds, was given a suspended sentence of one year and one day in prison and placed on probation, on condition she make restitution of \$8,500 to Northeast Savings Bank.

Miner noted that she was an assistant head teller at the bank's Clifton Park branch, where she was employed from January to April, 1984, and embezzled several sums totaling \$8,500 during a two-month period.

Some of the money has been repaid, the judge said, and the defend-

ant is now working at three jobs in order to complete restitution. "You blamed financial problems," he told her, "but that, of course, is no excuse."

● A Catskill couple, admitting a scheme to order merchandise for which they did not intend to pay, selling it and then filing for bankruptcy, pleaded guilty to mail fraud.

Cecelia Guerra, who operated Catskill Discount Center, admitted she mailed out the purchase orders to various companies for a total of \$17,565 worth of merchandise. Her husband, Michael Guerra, who worked at the center, acknowledged that he aided his wife in the fraud. Both said they knew they could not make payments and the items received were sold for less than the suppliers' prices.

The two will be sentenced June 28.

● Four more members of a major marijuana and hashish smuggling distribution ring were sentenced, as were 14 co-defendants last week.

Emanuel John Lauricella, 53, of New York City, described by Assistant U.S. Attorney John J. McCann as "the number two man" in the ring headed by convicted conspirator Robert Sterling, was given a prison term of 15 years and two years of special parole.

Kenneth Jamison, 40, of Woodstock, drew five years in prison and three years probation. Terms of two years in prison and two years special parole went to Preston Friedman, 37, of The Bronx, and Raymond San Pedro, 44, of Queens.

Two area attorneys accused of malpractice

By JOHN RUNFOLA
The Knickerbocker News

For Judge
Miner

June 7, 1985

Albany attorneys Jonathan Harvey and Arthur Flores are usually in court on behalf of their clients.

However, their roles will be reversed next week when they ask U.S. District Judge Roger Miner to dismiss a \$619,000 legal malpractice case against them filed by the Hartford Accident and Indemnity Co.

The insurance company is trying to recover damages from the attorneys in connection with a \$1-million-plus-interest medical malpractice award it had to pay John R. and Jean L. Van Syckle of Altamont rather than a \$500,000 settlement the firm claims the attorneys agreed upon before a state Supreme Court jury reached a verdict in the case. The Van Syckles also are named as defendants in the case.

The defendants contend no agreement was put on the state court record because the insurance company wanted to hear the jury's verdict, according to papers filed in federal court by Albany Medical College, which will ask Miner to permit it to join the case.

The college, which wants to recover \$500,000 in insurance coverage from Hartford, contends Harvey offered to put the oral agreement in writing, but Flores declined.

The company claims Flores, who was its attorney, failed to get the settlement on the record before a jury in Albany gave its 1983 verdict. Harvey, who represented the couple, is accused of failing to honor the agreement, according to papers on file in federal court in Albany.

Van Syckle, 46, was left impotent after genital surgery performed by the late Dr. Marvin W. Woodruff, who was associated with Albany Medical College at the time of the 1977 operation. The couple claimed the surgery was unnecessary and improperly performed, leaving the patient incapacitated and disfigured.

No settlement existed when the jury returned its verdict before state Supreme Court Justice Edward N. Conway, said Robert Roche, who represents Flores and his law firm, Maynard, Smith & O'Connor.

"There was no act of malpractice by Flores for not putting on the record a settlement which did not exist," Roche said in his motion to dismiss, which is pending before Miner.

Roche said Harvey, out of the presence of Flores, told Conway that the case was not settled.

"Mr. Harvey unequivocally at the time informed Judge Conway that the case was not settled," Roche said.

The case against Harvey should be dismissed because the Appellate Division of state Supreme Court has already ruled that no agreement existed before the jury verdict, said William D. Yoquinto, Harvey's attorney. He said the state Court of Appeals had declined to review the case.

The Appellate Division reduced a \$1.75 million award made to the couple to \$1 million, ruling that despite his injuries Van Syckle was able to conduct everyday activities. In its 1984 decision, the court said the award was excessive when compared to awards made in cases where death or crippling injury resulted.

Conway had earlier reduced the jury's \$2.4 million verdict as excessive.

United States District Court

DISTRICT OF MAINE

CHAMBERS OF
CONRAD K. CYR
CHIEF JUDGE

P. O. BOX 635
BANGOR, MAINE 04401

June 10, 1985

RECEIVED

JUN 12 1985

PERSONAL

Hon. Roger J. Miner
United States District Court
P. O. Box 868
Albany, NY 12201

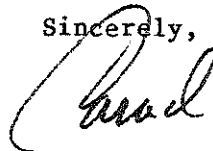
ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

Dear Roger:

It was most thoughtful of you to write me about Judy. I appreciate very much yours and Jackie's concerns and sympathy. Judy often spoke fondly of our get-togethers. We only wished that there could have been many more of them.

Please give my best to Jackie and tell her I'm still keeping my eye on the political scene in New York. My best to you, Roger.

Sincerely,



CKC/er

Ex-post office clerk sentenced

ALBANY KNICKERBOCKER NEWS - JUNE 15, 1985
Albany man convicted of stealing \$8,756 in postal funds

A former Empire State Plaza-based U.S. Postal Service clerk has been sentenced to two years in federal prison for stealing \$8,756 from the post office.

Frederick Chappell, 56, of 292 Catherine St., Albany, received two years in federal prison and two years probation Friday from U.S. District Judge Roger J. Miner in Albany. The sentence came after Chappell was convicted by a federal jury of two counts of stealing postal funds and making a false entry in postal service records.

"The defendant has lost the best job he ever had and brought himself to this

sorry situation," Miner said. He said the public and other postal employees should know that defendants found guilty of stealing money from the post office will go to prison.

In addition, Miner ordered Chappell to repay the money he stole.

Attorney Joseph Martino, who represented Chappell, said his client is a "pathological gambler" who also has a drinking problem.

"Alcohol and gambling problems are not licenses to steal," Miner responded.

Assistant U.S. Attorney Joseph A. Pavone said a routine 1983 postal service audit showed Chappell was

skimming money from cash paid by customers who patronized his service window at the plaza.

He said the trial jury rejected the defendant's claim that he did not steal the money. Pavone characterized the defense claim of alcohol and gambling problems as "a last ditch effort to avoid prison for his conduct."

Pavone asked Miner to give Chappell both prison time and a fine.

A 16-year veteran of the postal service, Chappell was fired and faces possible forfeiture of his postal pension to repay the money he stole, Martino said.

Judge dismisses 1 of 2 legal malpractice suits

ALBANY KNICKERBOCKER NEWS - JUNE 15, 1985
 U.S. District Judge Roger Miner has dismissed a \$619,000 legal malpractice suit against one Albany attorney but has allowed the complaint to continue against another lawyer.

Miner dismissed a suit against attorney Jonathan Harvey of Albany Friday but ruled that attorney Arthur Flores and his Albany firm of Maynard, Smith and O'Connor should remain as a defendant in a complaint filed by the Hartford Accident and Indemnity Co.

Flores represented the insurance company in connection with a \$1 million plus interest medical malpractice award it had to pay John R. and Jean L. VanSyckle of Altamont rather than a \$500,000 settlement the firm claims the attorney agreed upon before a state Supreme Court jury reached a verdict in the case.

VanSyckle, 46, won damages after being left sexually impotent following

genital surgery performed by the late Dr. Marvin W. Woodruff, who was associated with Albany Medical College at the time of the 1977 operation.

Harvey had represented the Van Syckles, who were earlier removed as defendants in the federal complaint.

The company claims Flores, who was its attorney, failed to get the settlement on the state Supreme Court record prior to a verdict returned by an Albany jury.

Miner permitted the college to join the case as a plaintiff.

Neither attorney Robert Roche, who represents Flores and his law firm, nor attorney William D. Yoquinto, who represents Harvey, were immediately available for comment.

Bankruptcy judge promoted

ALBANY - KWKW NEWS - SUN 8/16, 1985
U.S. Bankruptcy Judge Justin J. Mahoney in Albany has been named chief bankruptcy judge for the Northern District of New York.

The appointment was made by Chief U.S. District Judge Howard G. Munson and District Judges Neal P. McCurn and Roger J. Miner.

A former U.S. attorney for the Northern District — a 32-county area which includes the Capital District — Mahoney was first appointed by now-

Senior Judge James T. Foley to the post of referee in bankruptcy in the district in 1969.

A Troy resident, Mahoney served as referee and then as bankruptcy judge for three consecutive six-year terms.

Before assuming his public posts, Mahoney was in private practice with the late Judge Abraham C. Goldstein and then with his brother, A. Franklin Mahoney, now a presiding judge of the state Supreme Court Appellate Division.



Federal Bar Council

ALAN J. HRUSKA
President

June 20, 1985

RECEIVED

JUN 25 1985

ROGER J. MINER
U.S. DISTRICT JUDGE
ALBANY, NEW YORK

Honorable Roger J. Miner
United States District Court
District of Albany
United States Post Office
and Courthouse
Box 868
Albany, NY 12201

Dear Judge Miner:

I am pleased to enclose a memento of the
Law Day Dinner. Thank you so much for coming.

Respectfully,

John D. Gordan, III

JDG:gr
Encl.

PRESIDENT RONALD REAGAN CALLS ROGER J. MINER IN HIS
ALBANY, NEW YORK CHAMBERS FROM CAMP DAVID AT 5:30 PM
ON JUNE 21, 1985.

President calls Miner, nominates for Appeals

By Shirley Armstrong

Staff writer

The President called U.S. District Court Judge Roger J. Miner Friday and told him he was being nominated for promotion to the second circuit, U.S. Court of Appeals.

"We had a nice chat," said Miner, of what he described as a five-minute conversation with President Reagan.

The 50-year-old Republican, a former state Supreme Court justice who has been a member of the federal bench since 1981, is the first judge from the 32-county Northern District of New York to be named to the appeals court, which hears cases from federal courts in New York, Connecticut and Vermont.

The appointment, which Miner said pays about \$80,000 a year, is subject to confirmation by Congress.

Reagan apparently called from Camp David, Md., Miner said.

"He said he had just gotten off *Air Force I*," Miner said. "Maybe he told me that so I'd know it was the President."

Miner said Reagan told him he was about to nominate him, and Miner said he was very happy, and then Reagan gave his regards to Miner's family and rang off. "It was a brief conversation."

A resident of Hudson, Miner said he will commute to New York City where the appeals court meets. He said he hopes to return to Albany at times to preside as an acting judge.

Miner's departure will leave a second vacancy in an already undermanned bench. A newly created fourth full-time judgeship has not yet been filled, though Thomas J. McEvoy, a Broome County legislator, has been recommended for the lifetime post.

The only judges now sitting in the district are Chief Judge Howard G. Munson and Judge Neal McCurn, both of Syracuse.

Since Miner has been the only judge of the district from the Albany area, it is expected a successor from the same

area will be selected.

U.S. Magistrate Ralph W. Smith, also a Republican who now presides in Albany, has confirmed he is interested in the federal judgeship. There has been speculation that at least one other area Republican may be under consideration.

Miner is a graduate of Hudson High School; Columbia College; State University of New York with a bachelor's of science degree; New York Law School, where he graduated cum laude in 1956; Brooklyn Law School, where he completed graduate studies; Judge Advocate General's School; and the University of Virginia military law program.

While attending law school, Miner was managing editor of *The Law Review* and a member of the Moot Court Team. He won the Nathaniel L. Goldstein Award for excellence in constitutional law and the Law Forum Association award.

From 1956-59, Miner served with the Army as a first lieutenant in the Judge Advocate General's Corps. He saw active duty in Japan and Korea and won a commendation medal.

From 1959-75, he was a partner in a Hudson firm, specializing in trial work.

Miner served as Hudson corporation counsel from 1961-64, assistant Columbia County district attorney in 1974, district attorney of that county from 1968-75 and state Supreme Court justice in the Third Judicial District from 1976 until his appointment to the federal bench.

He taught criminal law at Columbia-Greene Community College from 1974-79. He has served as lecturer for New York State and local bar associations and at the State University of New York at Albany, where he conducted a graduate program in court systems management.

Miner has received several awards and is a member of the American and New York State Bar associations and numerous other professional and civic organizations.

The Chatham Courier

ROUGH NOTES

(USPS-558-420)

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National Newspaper Association, Washington, D.C.

Local boy makes good

KNOWING HIS razor-sharp wit, we're sure Roger J. Miner will not look askance at the heading over this editorial.

We have followed his brilliant career not only with great interest but with our editorial support since the fall of 1968 when he was Columbia County's Republican candidate for district attorney.

His next step upward in judicial ranks came in 1976 when he was elected to the New York State Supreme Court. In 1981 President Reagan appointed him U. S. District Court Judge at Albany, and this week the President nominated him for promotion to the Second Circuit, U. S. Court of Appeals.

That's not a bad record for a Hudson lad who has just reached 50 years of age.

Roger Miner has all the attributes and good qualities the people want in a judge. He is not only highly intelligent and learned, but has the priceless qualities of wisdom, humility and compassion all blended with a superb sense of humor. He has always presided over his court with consummate fairness and understanding and has thereby won, and he richly deserves the respect, admiration and affection of all who have come before him.

We warmly congratulate Judge Miner on his ascendancy ad astra per astra to the Court of Appeals, which is just one judicial level below the Supreme Court of the United States. We trust the day will come when Roger Miner will take that one last step upward to culminate a career unequalled in the annals of the judiciary in upstate New York.

Delay likely in naming Albany federal judge

By JOHN RUNFOLA *SUNB*
The Knickerbocker News — 27, 1985

Albany is expected to retain a resident U.S. district judge, although it is uncertain when an appointment will be made, according to a top aide to Republican Sen. Alfonse D'Amato.

Backlogged judicial nominations for vacancies elsewhere in the state and nation may slow filling the vacancy, Michael Kinsella, D'Amato's administrative assistant, said Wednesday.

The position opened when Judge Roger Miner of Hudson was named to the Second Circuit Court of Appeals in New York City. With Miner's departure, only Senior Judge James T. Foley would be available

to preside in Albany, although Syracuse-based Chief Judge Howard Munson and Judge Neal McCurn will have terms in Albany.

A Republican, Miner is the first judge from the 32-county Northern District to be named to the appeals court, which hears cases from federal courts in New York, Connecticut and Vermont.

"There has been no decision yet as to who would succeed in that (Miner's Albany) position," Kinsella said.

He said D'Amato's screening committee had a pool of about a dozen people who had been under consideration for appointment to the life, \$76,000-a-year district judgeship. Resumes will be accepted, he

said.

It could be "many months" before D'Amato makes his choice, Kinsella said.

Among those interested in the judgeship are Ralph W. Smith Jr., U.S. Magistrate in Albany since 1982.

"I have made a formal application to Senator D'Amato stating I am interested in the job," Smith said. As magistrate, the lowest-ranking judicial officer in the federal system, Smith has presided at arraignments, hearings and social security cases.

A Republican, Smith is a Columbia County resident, a former Albany County district attorney and former acting director of the state Organized Crime Task Force.

Ralph Smith considered possible successor

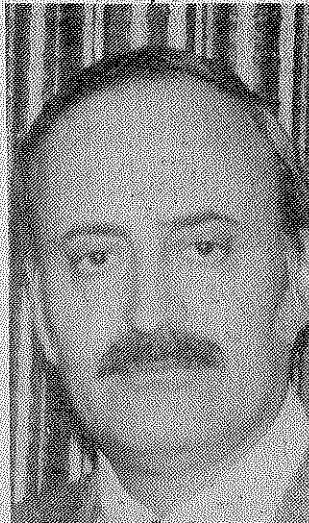
President nominates Miner to Appeals bench

CHATHAM COURIER 6/27/85

Ten years ago he was a rural county prosecutor, but today Roger J. Miner is the presidential nominee for the U. S. Court of Appeals - one step away from the highest court in the land, the United States Supreme Court.

The career of the 50-year-old jurist has been nothing short of meteoric - from Columbia County District Attorney to New York State Supreme Court Justice to U.S. District Court judge and now to the U.S. Court of Appeals, an appointment expected possibly as early as next month.

The judge's promotion could also be a career-boost for another Columbia County resident, U.S. Magistrate Ralph W. Smith of Ghent - who is a candidate to fill the judicial vacancy in the federal court's Northern



Roger J. Miner
...nominated by president

District of New York.

With Senate confirmation expected sometime in July, or August at the latest, Judge Miner would become the third jurist with Columbia County roots to reach the second highest federal court bench in the past decade - an accomplishment unique if not unprecedented for a small, upstate county.

In addition to Judge Miner, Judge Lawrence Pierce who resides in Canaan and New York City, also sets on the Second Circuit bench, while Hudson native Joel Flaum serves in the Seventh Circuit in Chicago, Ill.

Judge Miner will be the only Columbia County native and first Northern District jurist ever appointed to the prestigious bench and the first circuit judge in the 200-year history of the court to be chambered in Al-

bany.

Joining family, friends and the community in applauding Judge Miner's nomination was Judge Smith, who remarked, "I'm delighted for Roger, he's very hard-working, dedicated and deserving of it."

Interested in post

The Ghent native, who has served a little more than three years as a federal magistrate, acknowledged, "certainly I'm interested" in the district court appointment, which would boost him one rung up the judicial ladder.

A former assistant Attorney General in charge of the New York State Organized Crime Task Force and a former Albany County District Attorney, Judge Smith said, "I understand I'm in the running...that I'm being considered, but I've been



Ralph W. Smith
...possible promotion

told there are others also."

The "others" have not been identified.

As a magistrate, one of two in the 32-county Northern District, Judge Smith says his duties are essentially the same as Judge Miner.

Anyone arrested for a federal crime is initially arraigned before the magistrate, who has authority to try any misdemeanor crimes. Felonies are transferred to the federal judge for disposition.

Judge Smith explained his court has mainly civil jurisdiction, dealing with such matters as prisoner's civil rights, prisoner's habeas corpus and appeals of denials in Social Security decisions.

The filling of Judge Miner's vacancy will be by the president. Please Turn To Page A-2

Man who received child porn gets 5-year prison term

By Shirley Armstrong

Staff writer

Schoharie County resident Charles R. Reinhart, who had admitted receiving kiddie porn magazines mailed from Holland at his farm in Middleburg, was sentenced Friday to five years in federal prison.

Imposing the term of incarceration, Federal Judge Roger J. Miner noted that in 1970 the 41-year-old Reinhart was charged with sodomizing a six-year-old Schoharie County boy and was placed on probation.

Miner said a report on a presentence investigation by the Probation Department determined Reinhart

has also had sexual contact with at least one youngster within the past few years and is a danger to the community.

Assistant U.S. Attorney Bernard J. Malone Jr. said he urged a term of imprisonment not only as a punishment but also as a deterrent to others who might imperil the lives and futures of children for pleasure or profit.

Reinhart, who has lived with his mother, was arrested on March 29 at his home after an investigation by postal inspectors, the U.S. Customs Service and New York State Police.

Authorities said a search of the

premises yielded not only child pornography magazines but vast quantities of other pornographic materials relating to youngsters. They said they seized several hundred magazines and hundreds of movies and still photos.

Only one of the weapons, an Uzi semi-automatic submachine gun, required a permit, authorities said. Reinhart was charged with illegal possession of that weapon, but that charge was dismissed as part of a plea bargain.

In other cases before Miner:

● Kenneth Duccini, 31, of Route 9, Latham, pleaded guilty to three of 24 indictment counts, admitting that be-

tween January and April of this year he defrauded Key Bank and Schenectady Trust out of \$8,500 and \$1,500, respectively.

Duccini acknowledged that he deposited worthless checks in savings accounts at the two banks and drew money from the accounts at automated teller machines before the checks were returned.

Confined to Albany County Jail without bail since his April 11 arrest, Duccini will be sentenced July 19. He faces a possible maximum of 20 years in prison, a \$7,000 fine and an order to make restitution.

● Michael and Cecelia Guerra, both 36, of 346 Ridge Road, Glenville, were sentenced after admitting fraudulent use of the mails.

The two had admitted obtaining \$17,565 worth of merchandise on credit from several wholesale suppliers then selling it below cost while the wife's business, Catskill Discount Center in Catskill in Greene County, was going bankrupt.

The husband was sentenced to six months in prison and 42 months of probation, the wife to three months in jail and 45 months of probation. The two were also ordered to make full restitution to the defrauded creditors.

Judge rules wiretap data OK in state cocaine case

By JOHN RUNFOLA

The Knickerbocker News

U.S. District Judge Roger J. Miner has refused to throw out wiretap information used to charge 10 state workers with conspiring to distribute cocaine.

Miner ruled Friday investigators provided Albany County Judge Joseph Harris with enough information to authorize a wiretap to be put on the home telephone and state office telephone of Juan George, a state social services program specialist.

"On balance, while there was not substantial information, the information officers gave Judge Harris was sufficient," Miner said.

After authorities obtained the court-ordered wiretap, undercover surveillance efforts of George's 36 Brookline Ave., Albany, residence were frustrated when neighbors complained to Albany police about strangers in their area, Miner said.

Miner also denied a defense motion to dismiss the indictments against the defendants. Conspiracy to distribute cocaine carries a maximum term of 15 years in federal prison and a maximum fine of \$125,000.

The defendants include:

- Frederico Manon, 31, of 52 Hawthorne Ave., Albany, an affirmative action officer at the state Health Department.
- Martin Reyes, 34, affirmative action director of the state Thruway Authority.
- George, a state Social Services Department program research specialist and his wife, Maria Luisa George, who is employed as an assistant fair hearing officer at the Department of Social Services.
- Ismael Melendez, of 201 Myrtle Ave., Albany, who was on parole for armed robbery at the time of his arrest. He is an assistant fair hearing officer at the department of Social Services.
- Antonio Charles Molina, of State Street, Albany, an aide to state Assemblyman Angelo DelToro.
- Gustavo Hernandez, 37, of 15 Prospect Ave., Rensselaer, a state Department of Transportation employee assigned to the Waterford equipment maintenance section.
- Marcos Sarol, a New York City-based project director for the state Social Services Department housing assistance program.
- Antonio Young of Bleecker Place, Albany, an aide to the director of the

Another suspect, state Division for Youth stenographer Carmen Manon, the wife of Frederico Manon, faces a lone federal cocaine conspiracy charge.

The federal indictment accuses Reyes of setting up a Feb. 1 telephone deal for cocaine with Juan George. Sarol is also accused of talking with George about buying one gram of cocaine for \$100.

Mrs. Manon is accused of talking to Mrs. George about buying cocaine from another person on Feb. 7.

George is also accused of discussing the purity of cocaine he was to sell to Molina.

In addition, Melendez, in the indictment, is accused of allegedly offering to sell George cocaine. Young is accused of reportedly discussing a cocaine buy with George and later picking up the drug at his Brookline Avenue home, the indictment said.

Also a person described only as "an individual" was cited in the indictment as the buyer of cocaine at the George home. Mrs. George also reportedly agreed to supply cocaine for distribution, the indictment charges.

NEW YORK LAW SCHOOL ALUMNI ASSOCIATION

M I N U T E S

The June meeting of the Board of Directors of the New York Law School Alumni Association was held on Thursday, June 20, 1985, in Room A604, 57 Worth Street, at 12:30 p.m.

Richard M. Flynn, Esq., President, presiding.

Present were:

Richard M. Flynn
T. Lawrence Tabak
Stanley B. Doyle, Jr.
Hon. Ernst H. Rosenberger
Hon. Mary E. Cerbone
Hon. Carmen J. Cognetta, Jr.
Martin L. Baron
William V. Catucci
Kathleen G. Dussault
Harold A. Easton
Raymond S. Evans
Hon. Seymour Fier
Ronald C. Goldfarb
Lloyd N. Hull
Frank Irizarry
Murray T. Koven
Harris Gordon Miller
Michael Miller
Basil F. O'Connor
Joseph F. Periconi
Georgina F. Reich
David W. Shipper
Lawrence H. Silverman
Gregory D. Winter
Carol Morokoff

Honorary Board Members:

Hon. Norman C. Ryp
Harvey L. Strelzin

Guests were:

Assoc. Dean Ira M. Berger
Renee B. Grossman - Director of Alumni Affairs
Jeannette Richardson - Director of Planned Giving
Kenneth Simons - Director of Public Relations
Mali Daum Katz - Director of Research

Excused were:

Alfred J. Bohlinger
Martin A. Danoff
Bernard M. Eiber
Richard J. Finamore
Patrick J. Foley
Sylvia D. Garland
Stephen J. Gassman
Audrey C. King
Carol Kriesberg
Richard M. Meyers
Charles E. Moser
Hon. Francis T. Murphy
Hon. Stanley S. Ostrau
Harry Ostrov
Alan J. Schnurman
Jared Specthrie
Hon. Nicholas Tsoucalas
Hon. Eli Wager
Hon. Ivan Warner

Absent were:

Irvin Husin
Telesforo Del Valle, Jr.
Lorin Duckman
Robert V. Gaulin
Bruce Hausman
Marvin E. Jacob
David M. Kahn
James M. Kaplan
Roger F. Martin
Martin M. Psaty
Sherwood Allen Salvan
Guy R. Vitacco

Mr. Flynn called the meeting to order at 12:55 p.m.

At the outset, Mr. Flynn advised the members of the Board present that the Hon. Sybil Hart Kooper '56, a member of the Honorary Board of Directors, had been named to the Appellate Division, Second Department, thereby bringing together the first married couple to occupy seats at the same time on the same New York State appellate court. Justice Kooper is married to Justice William C. Thompson, who has been on the Second Department bench for four-and-a-half years.

Mr. Flynn asked for the Roll Call. A motion was made and seconded to dispense with the Roll Call and the motion was seconded and carried.

A motion was made and seconded to dispense with the reading of the Minutes of the March 21st meeting of the Board of Directors. There were no corrections and/or additions to the Minutes of the March 21st meeting and the Minutes were accepted.

The Treasurer's Report stated that as of June 20, 1985, monies on hand are:

Chase Manhattan Bank checking account	\$28,299.39
Seamen's Bank for Savings time certificate	\$20,326.96
Seamen's Bank for Savings savings account	\$ 7,463.24
	<hr/>
TOTAL	\$56,089.59

The Treasurer's Report was accepted.

Mr. Flynn then asked Associate Dean Ira M. Berger to address the group.

Dean Berger brought greetings from Dean James F. Simon and advised the members that the past academic year was one of which to be very proud of indeed.

There were a number of special events that were especially successful due to the efforts of many people and the participation of the alumni body.

The re-establishment of the geographical alumni receptions have been well attended and well received. Thus far we have gone to Greenwich, Connecticut and Washington, D.C. Other areas that are on the agenda for the coming academic year include Queens, Brooklyn, Nassau/Suffolk, Westchester/Rockland/Bronx, and a one week tour of San Francisco, Los Angeles, and Miami and Palm Beach.

Dean Berger then introduced the two newest members of the Public Affairs Office, namely Mrs. Jeannette Richardson, Director of Stewardship and Planned Giving and Dr. Kenneth Simons, Director of Public Relations.

Dean Berger then advised the members present that when they resume meeting in the Fall of this year, there will be a new dining room

and student cafeteria.

He then wished all a very healthy and restful Summer.

Mr. Flynn thanked Dean Berger for his remarks.

In the absence of Mr. Irvin Husin, Membership Chairman, the Hon. Mary E. Cerbone reported that as of June 20, 1985, the Association is carrying 2,098 members for the year 1985 and has collected \$55,355.00 in dues revenues. In comparison to last year at this time we are carrying 8 more members and have collected \$11,330.00 more in dues revenues.

Furthermore, 108 or 33% of the 327 members of the June '85 Class have already been signed up as members for the rest of the 1985 calendar year, taking advantage of the free membership afforded them by the Association.

Finally, Judge Cerbone reported that there are still 5 members of the Board who have not yet responded to the 1985 Membership Campaign.

The Membership report was accepted.

Mr. T. Lawrence Tabak then presented the Heritage Fund Report.

As of June 17, 1985, the Heritage Fund has received 1203 alumni contributions totaling \$90,488.97 and 54 matching gifts of \$7,295 for a total of \$98,783.97. While we are 100 contributions ahead of the figures at the same time last year, we are \$21,000 behind. However, last year's figure included a \$25,000 gift which is anticipated to be received before the end of this fiscal year. Furthermore, the outstanding Phonathon and Harlan Fellowship monies yet due, the end of the current fund year should show very encouraging totals.

The Heritage Fund report was accepted.

Stanley B. Doyle, Jr., Chairman of the PLEA Committee, reported that PLEA II was held on Thursday, April 25th, at the Appellate Division, First Department court room. The topic, "Real Estate Update - 1985", was presented to a record audience of well over the 125 persons that were in attendance. Carol Kriesberg '74, was the Moderator for the evening and she assembled a stellar panel which included, Bernard Mendik '58, David Ledy '74, and the Hon. Norman C. Ryp '57, all alumni of the Law School.

Basil F. O'Connor presented the Phonathon report.

Mr. O'Connor reported that the final tallies for the past fiscal year reflect a 77% positive response. There were 1102 specified pledges totaling \$49,319; 249 unspecified pledges; and 220 maybe responses.

The specified pledge totals were 222 pledges and \$6400 over last fiscal year (1983-1984).

To date, \$31,714 has been received from 722 individuals who had made

specified pledges and an additional \$5,043 from 141 graduates who made unspecified pledges or maybe pledges for a total of \$36,757 from 863 donors. To date, about 65% of the specified pledges have been collected, but that number should significantly increase by June 30th, due to the end of the fund year reminder that has been mailed.

Mr. O'Connor then expressed his thanks to Mali Daum Katz, Celis Whyte, Lorna Doran, and Joyce Samuel, the staff of the Public Affairs Office, for all their efforts and cooperation this past fund year.

The report of the Phonathon was accepted.

Mr. Flynn, Chairman of the Harlan Fellowship, reported that as of June 17th, the Fellowship has received more than \$85,000 in payments and pledges from 49 alumni and friends of the Law School. This is a significant increase in members and dollars over last year.

The Harlan Fellowship Dinner was held on May 16th, and many of the Fellowship members were in attendance. Gerald Crotty '76, Counsel to Governor Cuomo, was the guest speaker. In addition to the guests present, Dean Simon and Eve Dillingham, the daughter of Justice Harlan, were also present.

Mr. Flynn went on to report that the Law School's 93rd Commencement Exercises were held on Sunday, June 9th in Avery Fisher Hall at Lincoln Center.

Four distinguished individuals received honorary degrees including; Mario M. Cuomo, Governor of the State of New York, who was also the Commencement Speaker; Bill Moyers of CBS-News; the Hon. Ellen Ash Peters, Chief Justice of the Connecticut State Supreme Court; and Donna E. Shalala, President of Hunter College.

Prof. Zuhayr A. Moghrabi '67, a member of the Honorary Board, received a certificate of appreciation in honor of his serving as a member of the Law School's Adjunct Faculty for ten years.

Furthermore, Mr. Flynn said that he was privileged to present the three Alumni Association Awards during the ceremonies. The Dr. Max Reich Award for excellence in Civil Trial Advocacy was presented to Warren F. van den Houten; the Professor Vincent Lo Lordo Award for excellence in Administration of Criminal Justice was awarded to Richard J. Vande Stouwe; and the Professor Ivan Soubbotitch Award for excellence in Poverty Law and Civil Rights was awarded to Suzanne Jamie Levitt.

Mr. Flynn then advised the members of the Board present of the status of the Alumni Directory progress.

As of this date 594 copies have already been ordered and paid for. Furthermore, the Association has gained 72 members through the alumni questionnaire mailing.

The directory will be going to press late this Fall and be ready for distribution by early next year.

Mr. Flynn then advised the Board members to mark their calendars now for the 1985 Annual Dinner, sponsored by the Association, which is scheduled for Thursday, November 14th, at the Pierre Hotel.

The Hon. Roger J. Miner '56, District Judge for the Northern District of New York, will be the recipient of the Association's Distinguished Alumnus Award. Judge Miner is also a member of the Association's Honorary Board of Directors.

Formal invitations will be mailed in early October announcing further details.

There being no other Old Business to be discussed, Mr. Flynn then asked Mr. Harold Easton to address the Board. Mr. Easton is the Chairman for the newly organized Planned Giving Committee.

Mr. Easton advised the Board of the tentative schedule of activities for this new Committee and asked for volunteers. Mr. Basil F. O'Connor will be assisting Mr. Easton as will Joseph T. Arenson who has been appointed the Faculty Advisor. Mrs. Jeannette Richardson will be the Secretary for the group.

The tentative schedule reads as follows: Board of Trustees Approval, October, 1985 meeting; Invitation to join the Committee, October, 1985; Announcement of formation of the Committee in Florida, February, 1986; and a Committee Luncheon, March, 1986.

Mr. Joseph F. Periconi suggested that Judge Joseph A. Mazur '53 be nominated to the Honorary Board.

Mr. Flynn advised Mr. Periconi that this will be deferred until the Nominating Committee meets in the Fall.

Mr. Flynn then received the congratulations from the members present on his imminent Chairmanship of the New York State Power Commission.

The Hon. Carmen J. Cagnetta, Jr. advised the Board that there will be a Reunion Weekend, scheduled for October 11, 12, and 13, and that calendars should be marked for this special event. Activities are being planned for the entire weekend including a welcome cocktail reception for Friday evening, a day at the Law School on Saturday, a dinner/dance Saturday evening at the VISTA International Hotel, and a good-bye brunch on Sunday noon at the Hotel. A "save the date letter" has been mailed and a formal invitation, describing all activities in detail, will be mailed by late August, early September.

Mr. Flynn then made the following announcements.

The After-the-Bar Bash honoring the June '85 graduates of the Law School is scheduled for Thursday, August 1st. This will be held in the Student Lounge beginning at six o'clock in the evening. Invitations will be mailed.

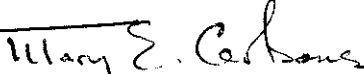
On Friday, September 27th, the First Annual Mario Biaggi Lecture, established in honor of Dean Emeritus Daniel Gutman, will be held at the Law School. The honored guest lecturer for this special occasion

will be President James Earl Carter. Invitations will be mailed.

The next meeting of the Board of Directors is scheduled for Thursday, September 19th. Time and location will be announced in a forthcoming Meeting Notice.

The meeting was adjourned at 1:50 p.m.

Respectfully submitted,



Hon. Mary E. Cerbone
Secretary

MEC:rbg

Grandinetti raps decision to split planning office

HUDSON — One of three supervisors who abstained from a committee vote to recommend dividing the Columbia County Planning and Development Department in two says it will hurt the county's economic development program.

"I think the county's getting out of the economic development business with this kind of move," said John Grandinetti, a Democrat from Hudson's First Ward who also is on the county Industrial Development Agency.

"I don't think they're going to have sufficient staff to do the job" if the department is split into a Planning Department and a Development and Promotion Department as proposed.

He said he abstained from the vote by the Board of Supervisors Planning Division because the IDA and other bodies that rely on the planning office for staff were had not been consulted on the idea.

But Alfred Near, chairman of the planning division, said there will be enough time for those agencies to comment on the plan before the full board acts on it in July.

He also said the changes would not necessarily be permanent, but "a trial thing until the end of the year."

Democrats Francis Blake of Chatham and Francis Keeler of Greenport also abstained from voting. The Register-Star erroneously reported Wednesday that the vote was unanimous.

"The main reason I abstained," said Mr. Grandinetti, "was that there are volunteer boards who work with this department — like the Industrial Development Agency, the Planning Board, the Traffic Safety Board, and so on — and I don't think those boards were apprised of this revamping."

He said it was decided to notify these boards of the planned changes by letter, "but it all looks like it's pretty well pre-determined at this point."

"I just really think it's a slap in the face for the county to put panels together and then not even confront them and seek their feelings on a revamping like this," he said.

"We have been in contact with with the division leaders and all the people involved — (including) the chairmen of the Planning Board and IDA — and they all felt to our satisfaction that this is a good idea. They will all be notified by letter and have plenty of time to get back to all of us."

Asked if he opposed the plan, Mr. Grandinetti said: "We didn't know enough about it to vote. It was just sprung on us. I think a handful of people had any input in the decision."

Asked if he favored replacing Mrs. Mesick instead, he said: "This was the program that I was assuming we were going to deal with. There had been a search committee established to replace the planning director. All of a sudden they decided out of the blue" not to, he said.

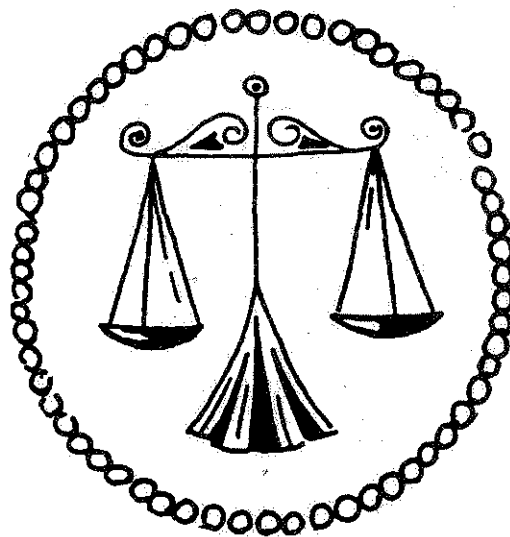
Republican Board of Supervisors Chairman George Sharpe said the matter is "going through the committees."

"I think the Board of Supervisors' committees who were involved put a lot of time into it. They interviewed a lot of people, and it's the committee's decision."

In a related matter, Mr. Sharpe said the building at 414 Union St., Hudson, which the planning and development department occupies will be put up for public sale after the two new agencies are moved to the 401 State St. county office building.

"If there's room at 401, there's no need to keep the building," he said. The building, county-owned, was formerly the state Supreme Court chambers of Judge Roger Miner. (barn)

SECOND CIRCUIT NEWSLETTER



Volume 10, Number 2

Spring 1985

Circuit Celebrates Its History with Vermont Lecture, New Exhibit

On April 17, the Second Circuit, in cooperation with the Federal Bar Council, again devoted a spring late afternoon to reliving and appreciating the rich and fascinating history of the courts of the circuit.

The occasion was the Federal Bar Council's annual history lecture and the simultaneous opening of the Second Circuit History Committee's newest exhibit in the Foley Square Courthouse in lower Manhattan. The annual lecture, fifth in the series, was delivered by District of Vermont Chief Judge Albert W. Coffrin and concerned the history of the federal court in Vermont. Immediately following Chief Judge Coffrin's presentation, "The Federal Courthouse at Foley Square" exhibit was officially opened with remarks from Court of Appeals Chief Judge Wilfred Feinberg and Judge Lawrence W. Pierce, SDNY Chief Judge Constance Baker Motley, Federal Bar Council President Alan Hruska, and attorney John J. Kenney, creator of the Foley Square Courthouse exhibit.

In his lecture, Chief Judge Coffrin recounted the history of the District of Vermont from its beginning in 1791 through the present. He suggested that the district's small number of cases could perhaps be

(continued on page 8)

District Executive Weare to Depart EDNY; Douglas Dodge Named Successor

The Eastern District of New York has selected Douglas C. Dodge, Senior Staff Attorney in the National Center for State Courts' Northeastern Regional Office, to be its new district executive. Mr. Dodge, EDNY's second district executive, replaces Richard H. Weare, who departs in early June to assume the position of Clerk of the District of Arizona.

The Eastern District was designated a district executive pilot district during the summer of 1983, and on August 1 of that year Mr. Weare -- then Clerk of the Court in EDNY -- was appointed to fill the new position. The District Executive Pilot Program nationally was initiated in 1981, and the Southern District of New York hired its first executive in February 1982.

In Mr. Dodge, the Eastern District gains the services of a
(continued on page 14)

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CIRCUIT UPDATE

The Eastern District of New York, according to a report recently released by the Administrative Office for the twelve month period ending December 31, 1984, reduced its pending civil caseload by more than any other federal district court in the country. The caseload was reduced by 1,083 cases, or 16.3%. In contrast to the national trend, where cases pending three years or more have increased almost 10%, the Eastern District through a concentrated effort was able to reduce the number of three year old cases by 34.5% or 212 cases, again the largest reduction in that category of any district court in the country. EDNY Chief Judge Jack B. Weinstein acknowledged the hard work of both active and senior judges in the district--as well as significant assistance received from visiting judges--which enabled the court to make this progress while the district has two judicial vacancies.

Despite a heavy caseload and the fact that he is the only U.S. District Judge between Buffalo and Syracuse, WDNY Judge Michael A. Telesca makes a point of devoting the necessary time and resources to educating and maintaining good relations with the local Rochester bar. One example is an article entitled "Federal District Court Procedures," written by Judge Telesca's law clerks Mark C. Davison and James J. Duane and edited by the judge, that appeared in the Monroe County (Rochester) Bar Association's monthly magazine Views in March. The article was prepared not only to inform the bar but also because, in Judge Telesca's words, "I...wanted to let the bar know who my law clerks were." Judge Telesca added that he "personally feel[s] a commitment to the bar to notify them of how to practice in this court...."

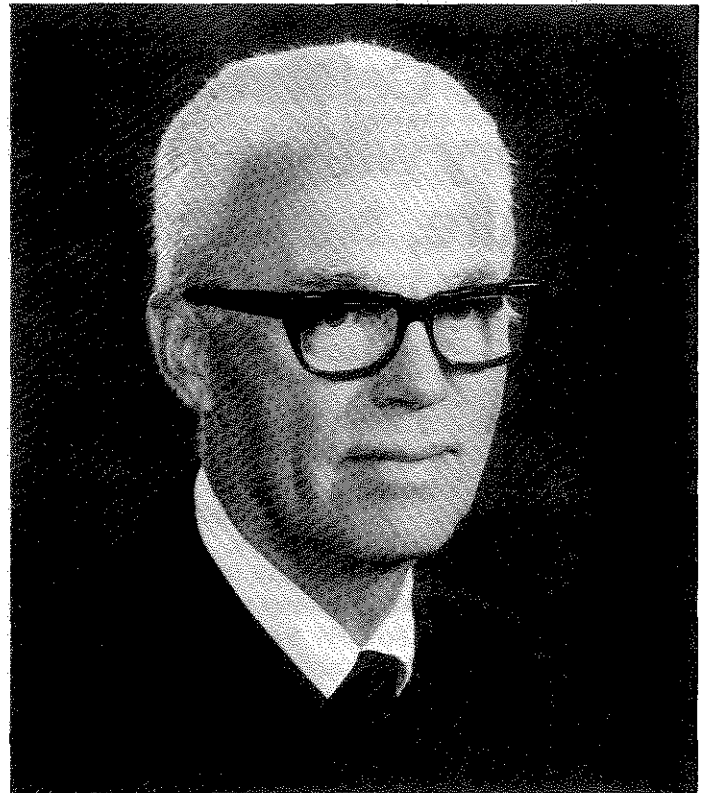
Eastern District of New York Chief Bankruptcy Judge Conrad B. Duberstein and Bankruptcy Judges Robert J. Hall and Cecelia H. Goetz were appointed to new fourteen year

(continued on page 13)

JUDGE VANGRAAFEILAND TAKES SENIOR STATUS

Court of Appeals Judge Ellsworth A. VanGraafeiland, following ten years of active service, assumed senior status on May 11.

Judge Van Graafeiland was appointed to the Second Circuit bench on January 14, 1975, taking the seat of Judge Henry J. Friendly, chief judge from 1971 to 1973, who himself had taken senior status.



Judge Ellsworth A. Van Graafeiland

A graduate of Cornell University Law School, Judge Van Graafeiland received his AB degree from the University of Rochester. For many years, he was a partner in a large Rochester law firm. Active throughout his career in bar association affairs, Judge Van Graafeiland is a fellow of the American Bar Foundation. He was president of the New York Bar Association from 1973 to 1974, and has served as a member of the House of Delegates of the American Bar Association. Judge Van Graafeiland is a life-long resident of Rochester.

(continued on page 7)

NY State-Federal Council Program Discusses Individual Calendar

On May 14, The New York State - Federal Judicial Council presented a panel discussion on "Working with the Individual Judge Assignment System." The program was held before an overflow crowd at the New York County Courthouse in lower Manhattan. The New York state courts, under the leadership of recently appointed Chief Judge Sol Wachtler, are on the verge of a system-wide transition from the "master calendar" case assignment system to the individual assignment system used in the district courts of the second circuit, and most other federal courts.

The council, composed of state and federal judges, advises the two judicial systems on solutions to mutual problems and seeks to resolve conflicts and misunderstandings. Second Circuit Court of Appeals Judge Richard J. Cardamone chairs the council; other members are Circuit Judge Ellsworth A. Van Graafeiland, SDNY Judge Charles L. Brieant, New York Court of Appeals Judge Judith S. Kaye, New York Appellate Division Justice Theodore R. Kupferman (First Department), and State Supreme Court Justice Edwin Kasso (Queens).

The late afternoon program, moderated by Judge Cardamone, began with opening remarks by Chief Judge Wilfred Feinberg and Chief Judge Wachtler. The four panelists, two judges each from second circuit district courts and the New York State Supreme Court, discussed the operation, strengths and weaknesses of the individual assignment system. As its name suggests, the individual assignment system involves assigning every case to a single judge, who is responsible for it from the earliest stages through disposition. The master calendar system is one in which different judges deal with different stages of a case's progression through the court.

Judge Brieant, characterizing his remarks as a "missionary presentation" on behalf of the individual assignment system, was the first speaker. Judge Brieant noted that the individual

calendar is less subject to manipulation by attorneys, and specially emphasized that judges have a special and personal interest in the system because it puts them in charge of their own work. Indulging perhaps in a bit of hyperbole, Judge Brieant identified the individual calendar with "freedom" for judges, and suggested that judges who preferred the former master calendar system of his district held, in effect, a preference for the life or work style of a bank teller or assembly line worker.

State Supreme Court Justice Martin B. Stecher followed Judge Brieant, and reviewed some of the difficult transitional problems that might arise as the New York courts move to the new system. Justice Stecher expressed particular concern about staff levels and deployment.

An especially interesting speech was presented by Judge Roger J. Miner of the Northern District of New York, who brought to the program experience as a state supreme court justice, state prosecutor, and federal district judge. Judge Miner observed that in the Northern District, which adopted the individual assignment system at the beginning of 1982, the results have been "dramatic", particularly in the much higher disposition rates per judge. After discussing his own practices regarding civil and criminal case management, Judge Miner turned to the question of managing discovery, "the greatest bottleneck...in moving a civil case to settlement or trial." He pointed out that "the individual calendar system permits the judge to address delays in discovery and to keep the action moving." Judge Miner's remark that "the appealability of discovery orders should be eliminated in New York as the first step toward court reform" received the loudest applause of the session from an audience composed of many state court judges. After noting the importance of deadlines and sanctions to the success of the individual assignment system, Judge Miner concluded that overall, the system is

(continued on page 9)

CRIME CONTROL ACT BRINGS MANY CHANGES

Second Circuit Conference, Seminars Focus on Key Sections

The courts of the Second Circuit, in recognition of the significance of the Comprehensive Crime Control Act, have taken several actions to educate and inform judges, magistrates, support staff and members of the bar of the important changes brought about by the Act and their likely repercussions.

The Comprehensive Crime Control Act will be the topic of the 1985 Judicial Conference of the Second Circuit, to be held September 5-8 in Hershey, Pa. Two full days of the conference will be devoted to discussion of major sections of the law.

Both the Southern and Eastern Districts of New York organized seminars on the Act. On December 19, the Eastern District sponsored a half-day symposium at the EDNY Courthouse in Brooklyn. More recently, the SDNY District Executive's Office and Criminal Justice Act Panel Committee sponsored a five-part educational program to take place on consecutive Tuesday evenings beginning April 23 at the Court of International Trade in Manhattan. The program discusses "the most significant provisions of the Comprehensive Crime Control Act of 1984 and the impact which it will have on the federal criminal justice system." Speakers at the SDNY program included U.S. District judges (Gerard L. Goettel, John F. Keenan, and Vincent L. Broderick of SDNY, and Anthony J. Scirica of the Eastern District of Pennsylvania) and magistrates (Naomi Buchwald and Sharon Grubin), criminal defense attorneys, assistant U.S. Attorneys and law professors. The primary purpose of the series is to improve the skills of members of the SDNY Criminal Justice Panel.

The Southern District also has made available two Federal Judicial

Reforms Cut Across Entire Criminal Justice System

The 1984 Comprehensive Crime Control Act is widely considered to be the most important and far-reaching piece of criminal justice legislation passed by Congress in many years.

The impact that the Act will have on the operations of the federal courts in the future is certain to be substantial; it has already produced significant changes in some proceedings. The 223 page act, signed into law on October 12, 1984, marks the culmination of years of legislative effort, including the work of a major national body, the so-called Brown Commission, to bring about major reforms in the federal criminal justice system.

The areas most profoundly affected by the Act are bail reform, sentencing, the insanity defense and victim compensation and assistance. However, the Act's provisions touch on a great many other components of the criminal justice system. These range from establishing a national clearinghouse for missing children to drug enforcement amendments to providing stronger penalties for credit card fraud.

The new Act drastically alters the present bail system and, indeed, modifies every aspect of the Bail Reform Act of 1966. The new bail amendments for the first time permit courts to consider danger to the community (in addition to the chances of a defendant "jumping bail") as a factor in setting bail conditions. The Act allows courts to deny bail altogether where a defendant poses a grave danger to others. Denial of bail outright, of course, constitutes what is known as preventive detention. Accordingly, a defendant may thus be detained if the judge finds that no other conditions will reasonably assure the defendant's appearance and/or public safety. However, potential preventive detainees are

guaranteed a detention hearing at which they may present witnesses and cross-examine. In addition, the Act provides that judges "may not impose a financial condition that results in the pretrial detention of the person."

In other words, bail cannot be set at so high a level that the individual is unable to afford it; if the court is concerned that a defendant may not reappear, its sole recourse is a detention hearing -- not excessively high bail.

The changes in sentencing procedures brought about by the Act are equally dramatic. The Act introduces a system of determinate sentencing whereby convicted defendants are to serve the specific period of time to which they are sentenced, with relatively little discretion left to prison officials or parole boards to release prisoners early or otherwise alter their sentences. Parole, in fact, is abolished by the Act, to be replaced by a limited system of "good time" credits. In an effort to promote uniform sentencing, the United States Sentencing Commission is established to set a narrow sentencing range for each federal criminal offense. Such sentencing guidelines are to cover all sentences, including those not involving incarceration; courts will be required to explain in writing any departure from the guidelines. Defendants are authorized to appeal sentences harsher, and the government to appeal sentences more lenient, than those specified by the sentencing commission guidelines. Finally, although parole is abolished, there remains "supervised release" for some newly freed inmates.

The Act introduces a new standard for the insanity defense, limiting its permissible use to those who are "unable to appreciate the nature or wrongfulness of their acts." Further, the burden is now on the defendant to establish his or her insanity by clear and convincing evidence. Expert testimony on the ultimate legal issue, i.e. whether or not the defendant was sane, is no longer permitted.

A substantial federal effort to

aid victims of crimes is called for by the Act, which establishes a Crime Victims Fund in the Treasury composed of forfeited appearance bonds, criminal fines, and other funds collected from convicted defendants, totaling not more than \$100 million per annum.

Other key provisions of the Act relate to trademark counterfeiting, reform of forfeiture laws, labor racketeering, foreign currency transactions, wiretap laws, computer fraud, terrorism and many other areas. Federal jurisdiction is expanded to cover such crimes as murder-for-hire, causing serious damage to an energy facility, escape from custody resulting from civil commitment and theft or bribery involving federal program funds.

To the extent that the voluminous Comprehensive Crime Control Act has a persistent theme or themes, they are probably: (1) bringing about greater uniformity in sentencing and other areas; (2) broadening federal jurisdiction over criminal activities and toughening penalties; (3) focusing more closely on such "new" crimes as computer fraud and establishing appropriate penalties; (4) tying up a myriad of "loose ends" in the federal criminal justice system, e.g. unclear sections in current laws and gaps and inconsistencies in certain statutes and regulations; and (5) turning away from the concept of rehabilitative sentencing and emphasizing "incapacitation" as a major purpose of incarceration.

A companion piece of legislation is the Fine Enforcement Act, enacted along with the Crime Control Act. The Fine Enforcement Act sets forth guidelines for amounts of fines depending on the nature of the offense, and in general establishes a more coherent structure for the collection and enforcement of fines.

SECOND CIRCUIT LECTURES (from page 4)

Center videotape programs discussing the Act, which may be seen on request in the SDNY video room. These tapes have been shown in other districts as well.

TRANSITIONS

WELCOME TO...

Waynette Bailey, deputy clerk in the District of Connecticut Clerk's Office, Hartford. . .

Fay DeFreitas, case processing clerk in the Court of Appeals Clerk's Office. . .

Lawrence J. Doyle, assistant director of administrative services in the Eastern District of New York. . .

Theresa Garner, file clerk in the Southern District of New York Clerk's Office. . .

Anthony Jones, file clerk in the Eastern District of New York Clerk's Office. . .

Antonio V. King, file clerk in the Southern District of New York Clerk's Office. . .

Lynn Little, case processing clerk in the Court of Appeals Clerk's Office. . .

Lin Fong Lui, Central Violations Bureau clerk in the Eastern District of New York. . .

Edmund Mullin, systems administrator in the Southern District of New York Clerk's Office. . .

Karen Onorato, deputy clerk in the District of Connecticut Clerk's Office, Hartford. . .

Regina M. Tate, courtroom deputy clerk in the Southern District of New York Clerk's Office. . .

Edward Wainielowicz, financial deputy clerk in the Southern District of New York Clerk's Office. . .

Debbie Wooten, case processing clerk in the Court of Appeals Clerk's Office. . .

FAREWELL TO. . .

Joseph A. Alonso, courtroom deputy in the Southern District of New York Clerk's Office, who retired this April after 40 years of Federal service. . .

Patricia Garrison, Central Violations Bureau clerk in the Eastern District of New York. . .

Elizabeth Hansen, deputy clerk in the District of Connecticut Clerk's Office, Hartford. . .

Gwen Houston, case processing clerk in the Court of Appeals Clerk's Office. . .

Dale W. Heiser, deputy clerk in the Southern District of New York prose clerk's office. . .

John Lupiano, assistant director of administrative services in the Eastern District of New York. . .

William B. Milligan, financial deputy clerk in the Southern District of New York Clerk's Office, who retired this April after 17 years of Federal service. . .

PROMOTIONS/CHANGES. . .

Court of Appeals operations manager Victoria Dalton has transferred to the District of Connecticut where she is chief deputy clerk.

Milton Fay, case processing clerk in the Court of Appeals Clerk's Office, has been promoted to supervisor of case processing. . .

Jayne Kahaner, Eastern District of New York personnel officer, has moved to the position of court reporter coordinator in the Eastern District. . .

WALL- LENGTH MURAL GOES UP IN FOLEY SQUARE CAFETERIA

Gayle McDowell, supervisor of case processing in the Court of Appeals Clerk's Office, has been promoted to operations manager. . .

Nancy Petrillo, court reporter coordinator in the Eastern District of New York, has assumed the position of management analyst. . .

PERSONAL. . .

Susan Genis, secretary to Southern District of New York Judge Gerard L. Goettel and a night student at Fordham University Law School, recently traveled to Washington, D.C. for the National Moot Court Competition. After her law school graduation, Ms. Genis will be returning to Judge Goettel's chambers--but in a somewhat different capacity. The judge has hired her as his law clerk for the upcoming term.

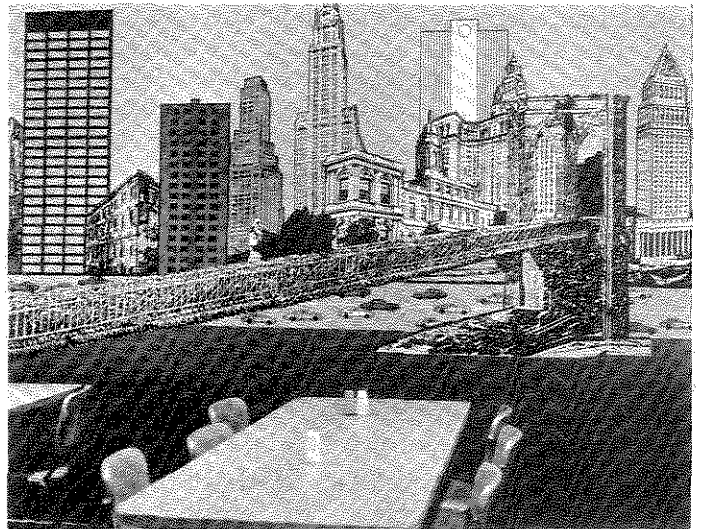
Condolances to the family of John Motto, retired jury clerk in the Southern District of New York, who passed away in late April.

JUDGE VAN GRAAFEILAND (from page 2)

Judge Van Graafeiland's assumption of senior status creates another vacant judgeship on the court, which now has three vacancies. Continuing a firm Second Circuit tradition, he expects to continue to undertake substantial judicial duties. Noting Judge Van Graafeiland's distinguished tenure as an active judge, Chief Judge Feinberg remarked that "Judge VanGraafeiland has made a remarkable contribution to the jurisprudence of the Second Circuit, through his energetic and thoughtful efforts. All of us look forward to continuing to work with him for many years."

The cafeteria in the Foley Square Courthouse in lower Manhattan received a badly needed aesthetic face lift when a mural that extends the length of the room was installed in April.

The mural, painted by Rhode Island artist Robin Halpern-Ruder, depicts the island of Manhattan -- viewed from Brooklyn -- from the statue of Liberty up to Cooper Union in the East Village. The mural is a caricature of Manhattan, i.e., it is not exactly representational and portrays many buildings as though they are close to the East River instead of in their actual locations.



The Mural of Lower Manhattan

Seventy-six feet long, the mural consists of 38 pieces of masonite fitted together and affixed to the north wall of the cafeteria. All of the major buildings in lower Manhattan, such as City Hall, the Municipal Building, and of course the U.S. Courthouse, appear on the mural.

Begun in the Spring of 1983, the mural took two years to complete. The idea for the project was initiated in the late 1970s by SDNY Judge Charles L. Brieant and Administrative Services Coordinator Frank Pisana. After funds were obtained from the Attorney Admission Fee Fund of the Second

(continued on page 14)

HISTORY LECTURE (from page 1)

traced to Vermonters' historical tendency to "shun...the expense of lawyers as generally unnecessary and resort...to litigation to resolve their disputes in only the most compelling of circumstances." What is now known as Vermont was, Chief Judge Coffrin observed, an independent state known as "New Connecticut" following the Revolutionary War.

Throughout most of its history Vermont had but a single district judgeship (the district's second judgeship was created in 1966). Among the early judges recalled by Chief Judge Coffrin was one Harland B. Howe, appointed by President Woodrow Wilson in 1915. Described as "colorful" and "far from a teetotaler," Judge Howe found himself in the uncomfortable position during Prohibition of having to preside at trials of persons arrested for violating the Volstead Act. Chief Judge Coffrin observed that Judge Howe's "sympathies always lay with those accused of violating the act and the sentences he meted out were those he considered appropriate for the negligible crimes he felt they had committed. It is said that he was in such violent disagreement with the guilty verdict returned by the jury in one bootlegging case that he immediately sentenced the defendant in the jury's presence to pay a fine of one cent and then, stating that he never wanted to see them again, ordered the clerk to strike the jurors' names from the rolls."

Reviewing the more recent history of the district, Chief Judge Coffrin described the tenure of the Hon. Bernard J. Leddy, the first appointee to Vermont's second authorized judgeship. An outstanding jurist, Judge Leddy was also "an avid hunter and fisherman [who] invariably recessed court during the two week deer season in November to the great delight of the male court officers, attorneys, litigants and jury members." Noting that Judge Leddy retired to a "remote hunting camp in the wilds ..." during this period, Chief Judge Coffrin observed that on "at least one occasion this necessitated a long trek through the woods...by counsel looking for the

judge to obtain his signature on a necessary order."

Chief Judge Coffrin's speech was very well received by the sizable audience at hand. Following the lecture, the participants adjourned to the lobby area for the exhibit opening.

Previous lectures in this annual series were delivered by Judges Edward Weinfeld (SDNY), Eugene H. Nickerson (EDNY), Jose A. Cabranes (Connecticut) and, in 1984, by Roger J. Miner (NDNY).

HISTORY EXHIBIT EXAMINES FOLEY SQUARE COURTHOUSE

"The Federal Courthouse at Foley Square" describes the architecture, construction and history of the building in lower Manhattan that is home to the United States Court of Appeals for the Second Circuit and the Southern District of New York. Constructed during the depths of the great depression, the courthouse was the last office building ever constructed in New York City in the classical style of architecture. (The Empire State and Chrysler Buildings, for example, completed several years before the Courthouse, were built in a "modernist" style soon to become dominant).

The courthouse opened its doors for business in January 1936. It was designed by Cass Gilbert, one of the foremost American architects of the early twentieth century. Gilbert was also the architect of the Woolworth Building, the Customs House at Bowling Green, and the U.S. Supreme Court Building. The Foley Square Courthouse was his final project; when Gilbert died in 1934, the building was more than a year and a half from completion.

For more than fifty years before the opening of the Foley Square Courthouse, as the exhibit chronicles, the Southern District and Court of Appeals were located in a massive structure known as the "Old Post Office." Built in 1875, the Old Post Office occupied what is now City Hall

(continued on page 14)

NY Times Recounts Judge Curtin's Desegregation Role

Observers and employees of the federal courts are often surprised at the limited press attention our courts receive, considering the vital issues they deal with so often. Frequently, too, the attention of the press seems attracted to the federal courts only when something goes wrong. A notable exception involves Western District of New York Chief Judge John T. Curtin, who was the subject of a highly laudatory front page story in the May 13 New York Times.

For the past nine years, as reported in the Times article, Chief Judge Curtin has been deeply involved in the integration of Buffalo, New York's public schools. As a result of Chief Judge Curtin's four desegregation orders and the subsequent restructuring of the city's school system, the Buffalo public schools are now considered "a national model of integration" and one of the best systems in the state.

After black leaders in Buffalo filed a federal suit to compel integration in 1976, Chief Judge Curtin's first order set in motion a chain of events that would lead to the creation of Buffalo's much-admired "magnet school" program. While the availability of federal desegregation funds enabled the city to modernize and reform what had been a deteriorating public education system, equally important to Buffalo's integration success story is the fact that Chief Judge Curtin "brandished a court order that kept things moving", using a "velvet steamroller."

The Times story observed that Chief Judge Curtin's desegregation orders gave city school officials "extra money and a built-in political excuse to modernize an aging...system." Referring to some of the necessary changes (such as closing some old neighborhood schools) involved in revamping and integrating Buffalo's schools, Chief Judge Curtin noted

that because of his role, local leaders could "point...to the judge and [say] He's a tyrant; he's making us do it."

The magnet schools each offer a different focus and curriculum; many of them were formerly all-black inner-city schools. So successful has the magnet school program been that thousands of students from all-white neighborhoods apply annually to attend (by bus) the magnet schools, and since 1980 "300 to 400 white children [each year] have left private and parochial schools...to attend integrated public schools."

Chief Judge Curtin believes that Buffalo's experience indicates that court-ordered desegregation can produce positive results. "I'm distressed," he told the Times, "by people who make statements nationally that integration doesn't work. It does work. It's plain wrong to say it won't. It's worked in Buffalo." Chief Judge Curtin grew up in South Buffalo, a white working-class section of the city that was the center of the antibusing movement that challenged his desegregation orders. Once the object of anger and resentment from South Buffalo's residents, Chief Judge Curtin today is perceived in a far more favorable light. "People respect him now," concluded a former leader of the antibusing movement.

INDIVIDUAL CALENDAR (from page 3)

the best way to "assure compliance with the procedures necessary to effectuate effective case management."

Following the final panel presentation by State Supreme Court Justice Albert M. Rosenblatt, who identified case management opportunities in existing New York law, Judge Cardamone entertained comments from the floor. Circuit Executive Steven Flanders and Justice Kassoff were the program coordinators.

An Interview with Richard Weare: A "Willingness to Experiment" Characterizes EDNY

Richard H. Weare was appointed Clerk of the Eastern District of New York in early 1978, where he served for five and a half years before being named as EDNY's district executive. In the following interview, Mr. Weare looks back on his more than seven years as the chief non-judicial officer of the circuit's second largest district.

In the approximately seven years you have been at the EDNY Court as clerk and then district executive, the Eastern District has, in the eyes of many, grown from a rather conservatively managed court into one of the nation's more dynamic, active and innovative federal trial courts. To what, or whom, do you attribute this transformation?

The emergence of the Eastern District and the transformation you mention was not an accident, but the result of hard work and a close working relationship between the judges of the court and the administrative support staff.

The judges have used the professional staff support available to them in an efficient manner. On the administrative side of the court's business, they have delegated both responsibility and authority, which has enabled the court to do much more than it would otherwise have been able to accomplish with the heavy caseload that exists in this district.

Without exception, the judges in this court have been willing, and, even further, have encouraged innovative approaches to the problems facing the court. The willingness of the judges to experiment with alternative approaches to the issues facing the Eastern District and their

courage in establishing new policy or changing old policy to implement change is what has brought the district the attention it has received. The Pro Bono Panel established in this district is just one example of this innovative approach to problems.

Trial courts are organizations with very little control over their workload or the outside participants in the trial court process, i.e. the lawyers, litigants, and witnesses. They must necessarily be flexible enough to adapt and respond to this ever changing environment.

This accomplishment cannot be attributed to any one person, but rather to the court as a whole working together toward a common end.

You have served both as clerk and district executive. What advantages do you believe that having a district executive brings to a district court?

I think that in this day and age, it is a distinct advantage to a metropolitan court to have the position of District Court Executive.

In the last ten years so much additional administrative responsibility has been delegated to the Clerk of Court because of his position at the center of court activities that there is a real danger of interference with the traditional statutory responsibilities of the clerk. The clerk has significant responsibilities in the areas of records and files management, case management, jury utilization, financial, naturalization, and statistical reporting to the Administrative Office.

The position of District Court Executive, as it has been established here, has cross-jurisdictional responsibility in the areas of budget, personnel, automation, space management, security, procurement, and policy implementation. In addition, the district court executive is responsible for the management of the non-judicial functions and activities of the court's component offices, including magistrates, probation,

pretrial services, district and bankruptcy clerks' offices.

It is difficult for a clerk to perform such responsibilities, because in the areas of space, equipment, supplies, or personnel, the clerk is more often a competing consumer--like probation or the bankruptcy court--than a provider of these resources to the entire court.

Duties that affect the entire court need to be discharged by someone responsible for the whole court, not just one part of the court. Implementation of court policy should be placed with a single individual if coherent, efficient operation is to be achieved among court activities and within each activity.

There is a subtle yet increasing decentralization of administrative responsibilities to the districts. This is a positive development, but one that requires the professional staff at the district level to respond to this new level of responsibility. The district court executive, as a neutral party at the district level, can represent the interests of the district as a whole rather than just one of its elements.

Looking back on your years in the Eastern District, which of your accomplishments do you view as being most significant?

The introduction of automation to the district is an accomplishment I take some pride in. When I came as clerk of court, there was no automation at all. Since then, we have made a concentrated effort to be in the forefront of the federal courts in developing automated applications. We have, at this time, the Index system; full criminal docketing; a pilot project in the jury and financial areas; and, this district serves as one of eight regional consolidated CVB (traffic tickets, etc.) districts in the country.

We were also successful in automating the Naturalization Section of the Clerk's Office so that newly naturalized citizens in this district

can receive their naturalization certificate at the final hearing, instead of waiting 4 to 6 weeks to receive their certificate after the official court ceremony. This not only made the naturalization hearing more complete, but this project continues to save over sixty thousand dollars a year in postage costs. We consistently naturalize more new citizens each year than any other court in the country. Being a part of and contributing to the many large naturalization ceremonies that the court has conducted has been rewarding.



Richard H. Weare

We have made progress in expanding the career opportunities in the Clerk's Office/District Court Executive's Office by creating and recruiting for professional level positions as mid-managers, personnel officer, management analyst, system administrator, court reporter coordinator, and interpreters.

Being able to participate in the efforts that led to the development and approval of uniform local rules for the Eastern District of New York and Southern District of New York was a source of satisfaction. I would hope, in the best interests of the

(continued on page 12)

bar, public, and bench, that a level of uniformity be maintained between the two districts.

One of the projects I enjoyed the most during my time with the court was last year when Chief Judge Weinstein and I taught a Seminar in Judicial Administration to second and third year law students from six metropolitan area law schools. That was a tremendous experience and I took great pleasure in working with and interacting with the students in the seminar.

Your professional training, unlike that of many district court clerks, has been in management as opposed to law. Did this prove to be a strength or a drawback as you worked to master the procedures and work with the personalities in a federal district court?

There are as many, if not more, district court clerks with management backgrounds and training than there are clerks with legal backgrounds. Either a non-lawyer or a lawyer can be successful in court administration at the federal level if they have the right blend of management skills and abilities. But, whatever one's background, a person must have, first and foremost, good management skills. The job of Clerk or District Court Executive is a management job.

When you look at the mission statement for the Clerks of Court, the duties that are described are all management duties. There are no legal responsibilities specified in the mission statement for either the Clerk of Court or District Court Executive. I think that having a management background is an advantage because of the people aspect of the job and the importance of good interpersonal skills when interacting with the variety of people you must deal with, including everyone from G.S.A. repairmen to bar association presidents and newspaper reporters. Most importantly, you have to be a problem solver and decision maker, and be imaginative enough to try new and varied solutions to the problems you face. The intangible in this job is

intuition. Someone with good intuitive skills and the ability to sense the nuances and subtleties in situations as they occur will be most successful.

The impression of one visiting the clerk's office in EDNY, or dealing with it by phone, is that the clerk's office staff is unusually capable and helpful, and possesses a high degree of pride in their work. Has the Eastern District simply been fortunate in its hiring decisions or do other factors -- such as the clerk's office personnel policies -- better explain this situation?

The comment I hear most often from the bar and the public is the one you raise here. In this district it is part of our tradition that had its beginning with Judge Mishler when he was chief judge and has been reinforced by Judge Weinstein during his tenure as chief judge. This attitude of cooperation, service, helpfulness is one that we take great effort to nurture and encourage.

My predecessor as clerk felt strongly about the staff being cooperative and helpful, and when I became the new clerk that was reemphasized to me. In turn, I have stressed the public service aspect of our job to my management staff and supervisors, and my successor as clerk has done the same thing. Gradually, after a period of time, it becomes engrained in the clerk's office spirit and tradition, and becomes a self-perpetuating attitude.

The Eastern District will soon be gaining two new judges, with a commensurate increase in support staff. Do you expect the district to experience some growing pains as it becomes a larger organization? If so, how can these best be dealt with?

We are already experiencing those growth pains. When I came, there were 9 active judges and one "active" senior judge and three magistrates. Now, there will soon be twelve active judges, and after October 1, 1985, five full-time magistrates. The larger the court becomes, the more difficult it is to manage. We have

only recently been approved to have court space in Hauppauge in Suffolk County. We will have judges, magistrates and clerk's offices in three different locations within the district. The logistics in coordinating the administrative and clerical details attendant to the courts' operations are made even more difficult by the separation and distance that come with divisional offices.

What are the major issues that you perceive confronting your successor in the years ahead?

Some of the major concerns will be the continuing development, encouragement and support of the ongoing automation efforts in the district. Space management projects, including the urgent need for a consolidated court complex in Brooklyn that would house all court-related agencies and departments within the existing building, is another concern. Finally, we have just begun work on a court-annexed arbitration program that we expect to start up in the fall.

What aspects of your position, and of the Eastern District Court, will you miss the most?

The job of Clerk of Court, or District Court Executive, is as good as the judges and staff that you work with. The job here in the Eastern District of New York has been the best experience in my professional life. It has been both challenging and rewarding. All of the judges have been tremendous. They have been helpful, supportive, encouraging, and my friends for the last eight years, and I will miss each of them and the close association that we have had over the years.

The aspect of the position that I will miss most is the creative atmosphere that exists here, the willingness of both the court and staff to try new things. That makes this district an exciting one to be part of. Secondly, being in New York City; the kinds of cases filed in this district make it one of the most exciting and interesting court administration opportunities imaginable.

CIRCUIT UPDATE (from page 2)

terms at a ceremony on May 9 at the EDNY Courthouse in Brooklyn, Chief Judge Jack B. Weinstein presiding. The three bankruptcy judges were appointed to the new terms by the Court of Appeals as provided in the 1984 Bankruptcy Amendments Act, following the recommendation of a Merit Selection Panel chaired by Professor Malachy T. McMahon of Hofstra. Chief Judge Duberstein was first appointed to the Eastern District bankruptcy bench in 1981, becoming chief judge in 1984. Judge Hall was initially appointed in 1976, and Judge Goetz in 1978.

With the coming of Spring, the Manhattan Federal Courthouse Running Team is again preparing for the annual Corporate Challenge Race in Central Park. Each year the Foley Square Courthouse fields a team for the 3.5 mile race, which last year attracted more than 10,000 competitors from banks, brokerage houses, law firms, government agencies, and public and private organizations of all kinds. All judicial and non-judicial personnel in the courthouse may participate, and past teams have included law clerks, a U.S. District Judge, clerks office staff from both the Southern District and Court of Appeals, a District Executive, and GSA workers. The team captain is Eddie Aponte, SDNY Deputy-in-Charge of Courtroom Support Services. Anyone interested in running on the team, as well as prospective cheerleaders, should contact Mr. Aponte (791-0150) at the earliest possible moment.

How's Your Health Insurance?

All of us hear numerous complaints about the inefficiency, delays, and inadequate response of many of our available health insurance carriers. All this is old news. If you have had a generally favorable experience in recent months or years, we would like to compile your experience and pass it on to Newsletter readers. Let us know.

DISTRICT EXECUTIVE (from page 1)

seasoned court administrator; he has worked in the field of judicial administration for the past fifteen years. Prior to his present position in the National Center for State Courts' Northeast office, Mr. Dodge served as Director of Planning and Development for the Pennsylvania Administrative Office of the Courts. While at the National Center for State Courts headquarters office in the late 1970s, Mr. Dodge served as project director of the ABA/National Center Project on Implementation of Standards of Judicial Administration. Mr. Dodge earlier worked for the New York State Office of Court Administration and for the Appellate Division, Fourth Department, on several court delay and criminal justice projects.

A native of upstate New York, Mr. Dodge attended the State University of New York at Buffalo, where he received his undergraduate and law degrees. After law school he was in private practice in Rochester.

CAFETERIA MURAL (from page 7)

Circuit, Ms. Halpern-Ruder, a free-lance artist originally from New York, was hired to paint the mural. Ms. Halpern-Ruder had painted many murals before the Foley Square job; her work can be found in corporate offices, hospitals, private homes and many other spaces.

The mural has been a welcome addition to what had been one of the least inviting public rooms in the Foley Square Courthouse.

HISTORY EXHIBIT (from page 8)

Park; by the early 1930s, the structure was widely regarded as an eyesore in an advanced stage of decay. The desire of the New York City government and many citizens to raze the Old Post office and return its site to use as a park gave impetus to efforts to build a new federal courthouse.

In addition to portraying the construction of the courthouse, its architectural features, and the move into the new building, the exhibit outlines the history of Foley Square (named in the 1920's for a local Irish political figure and saloon keeper), which in the nineteenth century had been the city's most notorious slum and, much earlier, a large fresh water pond. "The Federal Courthouse at Foley Square" will be on display in the Courthouse main lobby through October.

OFF THE BENCH

Chief Judge Wilfred Feinberg of the Court of Appeals received an honorary Doctor of Laws degree at Columbia University's commencement on May 15. Chief Judge Feinberg attended Columbia Law School, where he was editor-in-chief of the law review, graduating in 1946. Other recipients of honorary doctorates included AFL-CIO President Lane Kirkland and American Ballet Theatre Artistic Director Mikhail Baryshnikov.

New York Law School's John Marshall Harlan intramural moot court competition on March 26 took place before an unusually distinguished panel. Judges James L. Oakes, Lawrence W. Pierce, and Ellsworth A. Van Graafeiland presided over the competition at the lower Manhattan law school.

Court of Appeals Judge George C. Pratt and Eastern District of New York Judges Frank X. Altamari and Leonard D. Wexler made up the panel presiding over the Nassau Academy of Law's moot court competition on March 7.

Judge Edward Weinfeld of the Southern District of New York was one of the guests at the Association of the Bar of the City of New York's Presentation of Association Medal and honorary memberships. The event was held at the Association's midtown Manhattan building on March 18.

The panel for the Association of the Bar of the City of New York's April 24 Forum "Amended Rule 11: How Go the Best-Laid Plans?" consisted of Southern District of New York Judges **Robert L. Carter** and **Kevin T. Duffy** and Eastern District Judges **Eugene H. Nickerson** and **Frank X. Altimari**. Judge Altimari was also the guest of honor at the St. Francis College Alumni Association's April 19 dinner.

"Management of Mass Accident Cases in Light of Union Carbide" was the topic discussed by a panel on April 2 that included Judge **Robert J. Ward** of the Southern District of New York. The panel discussion was sponsored by the Association of the Bar of the City of New York.

Judge **Lee P. Gagliardi** of the Southern District of New York was one of the guests at the Westchester County Bar Association's Eighty-Seventh Annual Banquet held on March 28.

Among the speakers at a New York State Bar Association Seminar on "Federal Court Practice" were Southern District of New York Judge **Vincent L. Broderick** and Eastern District Magistrate **Shira Scheindlin**. The seminar took place April 19 at the Penta Hotel in Manhattan.

Judge **William C. Conner** of the Southern District of New York was presiding judge at the final round of the New York State Bar Association's Moot Court Mock Trial Tournament on April 16.

Southern District of New York Judge **John F. Keenan** was the speaker at an April 1 New York County Lawyers Association Criminal Trial Advocacy Course. Judge Keenan spoke on "Extraordinary Defenses." Judge Keenan also addressed an April 3 luncheon forum of the New York County Lawyers Association on the topic "New York State and Federal Criminal Law: Differences as Viewed from the Bench".

Bankruptcy Judge **Cecilia H. Goetz** of the Eastern District of New York was one of the speakers at the New York Women's Bar Association's Observation of Women's History Month. Judge Goetz discussed the history of women in the law at the March 12 event at Fordham Law School.

Southern District of New York Bankruptcy Judge **Howard Schwartzberg** addressed the Port Chester-Rye Bar Association in Rye, New York, on April 24.

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ideas for articles, articles, or
suggestions to above address.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 25, 1985

The President today announced his intention to nominate Roger J. Miner to be United States Circuit Judge for the Second Circuit. This is a new position created by P.L. 98-353, approved July 10, 1984.

Since 1981, Judge Miner has served as a United States District Judge for the Northern District of New York. Prior to his appointment to the district court, he was a Justice, New York Supreme Court, 1975-1981; a District Attorney for Columbia County, New York, 1968-1974; an Assistant District Attorney for Columbia County, 1964; Corporation Counsel for the City of Hudson, 1961-1964; and a partner in the law firm of Miner & Miner, 1959-1975.

He served in the United States Army, Judge Advocate General's Corps, from 1956-1959. Judge Miner attended Columbia College, received a LL.B. degree in 1956 from New York Law School, and a B.S. degree in 1977 from the State University of New York.

He is married, has two children and resides in Hudson, New York. Judge Miner was born April 14, 1934.

#

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 25, 1985

NOMINATIONS SENT TO THE SENATE:

Donald Alden Hicks, of California, to be Under Secretary of Defense for Research and Engineering, vice Richard D. DeLauer, resigned.

William P. Horn, of Virginia, to be Assistant Secretary for Fish and Wildlife, Department of the Interior, vice G. Ray Arnett, resigned.

Roger J. Miner, of New York, to be United States Circuit Judge for the Second Circuit, vice a new position created by P. L. 98-353, approved July 10, 1984.

Roger L. Wollman, of South Dakota, to be United States Circuit Judge for the Eighth Circuit, vice a new position created by P. L. 98-353, approved July 10, 1984.

Roger G. Strand, of Arizona, to be United States District Judge for the District of Arizona, vice Charles A. Muecke, retired.

Richard H. Mills, of Illinois, to be United States District Judge for the Central District of Illinois, vice J. Waldo Ackerman, deceased.

John M. Walker, Jr., of New York, to be United States District Judge for the Southern District of New York, vice Morris E. Lasker, retired.

#

Awards: Moe Sweetgall reported the Awards Assembly was held on June 14th. Robin Shulman received the Edmund Koenig Award and Lara Karic received the Tamarin Award.

Community Relations: Rabbi Fried reported the Baccalaureate Services held on June 19th at the Synagogue was well attended, the service was meaningful to the graduates and families. A reception was held following the services and the bill incurred was \$84.00; however, donations will be made for the expenses. He noted that the Town Fair had donated the paper supplies for the reception.

Membership: Ben Schnitzer reported he had an application for membership from Evelyn Dansky.

OLD BUSINESS

Personnel: Moe Sweetgall made a motion which was carried that the Executive Committee and Personnel Committee make the determination as to the hiring of personnel problems this summer without calling a special Board meeting.

Membership: All were in favor of accepting the application of Evelyn Dansky.

NEW BUSINESS

✓ Paula Shulman suggested that we think about having a testimonial dinner in the future for Judge Roger Miner.

Rabbi Fried announced that his neighbors brought his attention to the fact that the house on James Street hadn't been painted in several years. House committee will look into it.

Maxine Flaum reported that she was approached by the Temple in Catskill that they are in need of 6 or 8 desks for their Hebrew School. After discussion all were in favor of donating these extra desks that are not in use downstairs.

Ben Schnitzer asked if our banquet tables could be rented out since there is a need for this service, however, because of the food these tables cannot be brought out of the Synagogue.

Good and welfare: Dora Jackowitz announced that sympathy be extended to Harriet Lieberman on the loss of her father. Congratulations to the following:

** Mr. and Mrs. Sam Goodman on the graduation of their grandson Mark Alan Goodman of Atlanta, Georgia from the University of Georgia Law School.

**Mr. and Mrs. Ben Flaum on the marriage of their son Alec in St. Louis, Mo.

**Edward J. Cohen on his 80th birthday.

**Daniel Rapport and Lynn and Carmi Rapport on Daniel's graduating as Valedictorian of the Hudson High School Class of 1985

**Jan and Arthur Koweeck on the birth of their grandson Jamieson and to their son Jimmie and his wife Sue.

**Joseph Wishengrad on his retirement.

✓ **Judge Roger Miner on his nomination to the Second Circuit U.S. Court of Appeals.

President Karp announced that no board meeting will be held during July or August. Meeting was adjourned.

Respectfully submitted,

Gloria Cukerstein, Secretary

THE WHITE HOUSE

WASHINGTON

July 1, 1985

Dear Judge Minor:

Congratulations -- I thought you would like to have a copy of the enclosed press releases.

With best regards,

Sincerely,



Fred F. Fielding
Counsel to the President

The Honorable Roger J. Miner
RD 2, Box 110E
Hudson, New York 12534

Enclosures

Court grants woman poor person status

KNICKERBOCKER NEWS - July 6, 1986

Mary C. Fiacco has been granted poor person status in her appeal of a \$25,000 civil rights award against the Rensselaer police department.

U.S. District Judge Roger Miner granted Ms. Fiacco the status Friday after she said she was on welfare and had not worked since 1975.

Robert W. Redmond, Ms. Fiacco's attorney, said she needed the status to answer the city's appeal of the civil rights award. Ms. Fiacco, 27, of 2 Ring St., Rensselaer, told Miner she had no money to proceed with the appeal.

In the federal civil case Friday, Redmond said the city is appealing a deprivation of civil rights verdict returned by a federal jury in connection with his client's arrest for disorderly conduct on April 4, 1981.

While Ms. Fiacco pleaded guilty to disorderly conduct, she claimed in her federal suit that the arresting officers kicked and beat her and dragged her in handcuffs across a gravel parking lot.

The jury awarded Ms. Fiacco \$75,000, although District Court Judge Virgil Pittman later reduced the award to \$25,000.

Although his client agreed to the

reduction, Redmond said the city has since appealed the award to the second circuit federal Court of Appeals in New York City.

The city maintains Ms. Fiacco had struck the two officers making the arrest.

Friday's determination means that Ms. Fiacco will not have to pay for expensive filing fees and other costs associated with the federal appeals process, Redmond said.

Also, the status means the federal government will pay her attorney's fees if the city is unsuccessful in its appeal of the award, Redmond said.

Ms. Fiacco is currently free on \$25,000 bail pending appeal of a 4-to-12-year state prison term and conviction stemming from the 1983 arson of a city tavern. A patron of Frank's Tavern on 1933 Broadway, Rensselaer, Ms. Fiacco was convicted of second-degree arson in a fire that destroyed the tavern and an apartment.

She also was arrested earlier this year by Rensselaer police, who charged her with biting one of their officers while a passenger in a van.

Father will swear in Judge Miner

HUDSON — U.S. District Court Judge Roger Miner of Hudson will be sworn in as a judge of the U.S. Court of Appeals by his father, attorney Abram Miner, on Sept. 14 in Albany.

By a vote of 100-0, the U.S. Senate confirmed his nomination Friday for a seat on the Second Circuit bench as recommended Thursday by the Senate Judiciary Committee.

The swearing-in ceremony will be in the U.S. District Court courtroom that Judge Miner has presided over since 1981. Second Circuit Court Chief Judge Wilfred Feinberg will preside. It will be a special session of the U.S. Court of Appeals.

Judge Miner said tentative plans are for U.S. Sen. Alfonse D'Amato and Congressmen Gerald Solomon and Hamilton Fish to speak.

"It seemed kind of fast, didn't it," said Judge Miner of his con-

Please Turn To Back Page

...father will swear in

Continued from page A-1
firmation. "I was only down there Wednesday for questioning. Thursday the committee voted and Friday the full Senate confirmed me. It was a lot quicker than the last time."

He was referring to 1981 when the Senate confirmed him for his present post. He said he did not know why the Senate moved so rapidly this time, saying "strange are the ways of the U.S. Senate."

The former Columbia County district attorney said he will

spend the next few months cleaning up cases in the district court.

"Then I'll get my files for my first session in circuit court which begins Sept. 30 in New York City," he said.

Asked if being appointed to the second highest court in the nation had hit him yet, he replied, laughing, "No it hasn't, but I bet it'll hit me when I get the case files and have to start working on them." (gs)

Miner Confirmed; Swearing-In Slated Sept. 14 in Albany

Daily Mail 7/22/85
CATSKILL - The United States Senate has confirmed District Judge Roger J. Miner of Hudson for a post on the Federal Court of Appeals, the court which is one step below the Supreme Court.

The appointment now goes back to the White House for signing. A swearing-in ceremony will be held Sept. 14 in Albany; Judge Miner will sit for the first time in his new post the week of Oct. 1 at Foley Square in New York City.

This will be the first time in the nation's history that a Court of Appeals judge has been chambered in Albany, Judge Miner said. The court has a strength of 13 members; at this time there are two vacancies.

Judge Miner said the swearing in would constitute a special session of the court and he hopes that Chief Judge Wilfred Feinberg will be able to preside.

Judge Miner was named to the Northern District of the U.S. District Court in 1981. He is the husband of Jacqueline Mariani Carmichael, formerly of Kiskatom; the couple have four sons.

Before being elevated to the federal judgeship he served as



Roger J. Miner

Supreme Court Justice, District Attorney, Corporation Counsel for the City of Hudson, and in private practice with the firm of Miner and Miner in Hudson.

Judge bids farewell to Albany bench

By Shirley Armstrong

Staff writer

"We're taking the show on the road," a grinning Federal Judge Roger J. Miner said Friday as he and his two law clerks stepped out of the Post Office Building on Broadway in Albany. "We're leaving Broadway and opening at Foley Square."

Miner, who will move up on Sept. 30 to the office of judge of the Second Circuit Court of Appeals, headquartered in New York City's Foley Square, had just finished his last day on the bench in federal district court for the northern district of New York, and the occasion was marked by good-natured banter and witty one-liners.

Moving right along for 3½ hours, Miner polished off a motion day calendar of 25 civil and five criminal cases, admitted one of his own law clerks to Federal Court practice, heard a brief tribute voiced by an Albany attorney, and received a round of applause from lawyers in the crowded courtroom.

Clerk Leo Gagon, newly admitted to the state bar, bore the initial brunt of the judge's joking jibes.

Declaring Gagon a "longtime member of the bar, having been admitted three days ago," Miner said he did not wish to show bias in favor of his clerk and would thus follow the custom of asking the applicant a question. He fired it like a pistol shot: "What was the holding in the case of *Younger versus Harris*?"

Momentarily non-plussed, Gagon finally came up with the answer.

"You just made it, Leo," the judge told him.

Nor did Miner spare his senior law clerk, Michael Roffer, who had offered an eloquent motion for Gagon's admission. "Your motion," said the judge, "was almost as long as some of your draft decisions."

Later, Miner and Albany attorney Stephen Coffey, who was arguing a motion, indulged in some amusing dialogue. After Miner cited a decision of the Second Circuit, Coffey assured him: "I have a great deal of respect for

5-year terms in fraud case

On his last day in U.S. District Court, Judge Roger J. Miner Friday sentenced a Latham man, who had admitted defrauding two local banks out of a total of \$10,000, to three concurrent five-year terms in prison.

Kenneth Duccini, 31, of Route 9, had pleaded guilty to three of 24 indictment counts and, under a plea bargain, also had admitted the others, the judge said.

Duccini was accused of stealing \$8,500 from Key Bank and \$1,500 from Schenectady Trust Co. between January and April of this year by depositing worthless checks in savings accounts and drawing money from the accounts at automated teller machines before the checks were returned.

Miner pointed out that Duccini has four prior convictions, including one for an armed robbery (in another state) and was on probation at the time of the most recent offenses.

Duccini could have received a maximum sentence of 20 years in prison, a

See MAN / B-2

the Second Circuit — and it's getting better."

Replied the judge: "You have a good argument there."

When attorney Arthur McGinn noted that it was Miner's "last day on the bench," the judge hastily added: "in this court."

While punctuated with humor, the lengthy, non-stop session also was marked by Miner's typical brisk pace. At close of the session, Miner, walking jauntily along the corridor, said he didn't feel much different than he has after every motion day since assuming the bench in 1981. But he predicted: "I'll miss the people in this court and the lawyers — most of them."

Miner will be presiding in New York City in his new job, but will continue to maintain chambers in Albany.

Man sentenced for automated-teller fraud

when those who have become involved in cocaine distribution must pay the price."

• Michael Tushaj, 22, of Catskill, pleaded not guilty to conspiracy to distribute cocaine, three counts of distribution of the substance and three counts of using a telephone to facilitate the distribution.

It is alleged that from Jan. 16 through March 12 of this year, Tushaj took part in a conspiracy under which cocaine sales were made in the city of Albany. If convicted of all charges, Tushaj could be sentenced to 72 years in prison and fines of up to \$620,000.

"high-purity" cocaine was seized during their investigation.

A co-defendant, Francesco Greco, 29, of Miami, was sentenced previously to four years in prison after pleading guilty to conspiring to possess the narcotic with intent to distribute it.

Barth spoke briefly. "I tried to keep myself out of it," he said, "but for some reason I got into it." He said he had used "bad judgment."

Miner, who said Barth was on probation locally at the time of the offense, said: "There comes a time

Continued from B-1
\$7,000 fine and an order to make restitution to the banks.

In other cases before Miner

• Robert Barth, 45, of Bay Parkway, Lake George, a former Albany resident, was sentenced to three years in prison for using a telephone to facilitate the distribution of about 10 pounds of cocaine in the Lake George-Glens Falls area in November 1983. He had pleaded guilty to two such counts.

Agents of the Albany office of the U.S. Drug Enforcement Administration and the U.S. Customs Service said

7 seek federal bench

T.O.
7/24/85
Lifetime post
open in Albany

By Shirley Armstrong

Staff writer

At least seven Republican members of the area legal community are actively seeking the coveted lifetime position of federal judge in the Northern District of New York.

All confirmed last week they have submitted or are about to send applications for the \$76,000-a-year seat vacated by Judge Roger J. Miner, named by President Reagan to the U.S. Circuit Court of Appeals. His appointment was approved July 19 by the full Senate.

It is expected Reagan will name a fellow Republican to the judgeship.

The seven seeking his seat are U.S. Magistrate Ralph W. Smith Jr., former state Assemblyman Michael J. Hoblock Jr., Albany Law School professors Peter Preiser and Michael Hutter, state Republican Committee Counsel Thomas Spargo, and Albany attorneys Donald T. Kinsella and Brian F. Mumford.

● Smith, 49, has served as the district's first full-time magistrate since 1982. A 1956 graduate of Yale University and a Ford Foundation Scholar, he attended the University of Paris in 1955.

A Navy flight officer from 1957-63, he then joined the Naval Air Reserve, retiring in 1982 as a captain.

Smith entered Albany Law School in 1963 and graduated in 1966. He began his legal career with the Albany firm of Hinman, Straub, Pigors & Manning. From 1969-70 he served as an assistant Albany County district attorney. He became chief assistant in 1970 and district attorney in 1974.

He also served as assistant state attorney general in charge of nursing home investigations, attorney for the director of the state Organized Crime Task Force and a member of the

See 7 Republicans / C-14

SYLLABUS

LEGAL ENVIRONMENT OF COURT MANAGEMENT

Instructor: Judge Roger J. Miner

Course Description: This course will examine the legal context in which the courts operate. The primary focus will be on legal procedure - the stages of the litigation process for both civil and criminal cases and the legal requirements governing various aspects of case processing. Current procedural issues and proposals will be examined.

Schedule of Classes: July 11-13, 1985 (Module 1)
August 1-3, 1985 (Module 2)

Papers: A paper must be prepared for submission on the first day of Module 1. This paper should discuss the procedural steps leading to trial in civil litigation, identify those procedures most likely to cause delay and briefly review some proposals for procedural reforms in pre-trial proceedings.

A second paper must be prepared for submission on the first day of Module 2. This paper should discuss the nature and functions of a grand jury - how it is constituted, the manner in which it receives evidence and the procedures employed in its proceedings. Reasoned opinions either supporting or opposing proposals to abolish grand juries should be given.

No paper shall exceed five to six typewritten pages in length.

Grades: The final grade will be computed on a weighted average as follows: papers - 40% (20% each); class participation - 10%; final exam - 50%. The final exam will consist of three essay questions to be given at the end of Module 2. One hour will be allowed to answer each question. A grading curve will not be applied.

MODULE 1

Required Readings (to be completed before first class):

Books: An Introduction to the Legal System of the United States,
Second Edition, by E. Allan Farnsworth (Oceana
Publications)
Civil Procedure in a Nutshell, by Mary Kay Kane (West
Publishing Co. 1979)

Monographs: Conduct of the Voir Dire Examination:
Practices and Opinions of Federal District Judges,
by Gordon Bermant (Federal Judicial Center 1977)
Asbestos Case Management: Pretrial and Trial
Procedures, by Thomas E. Willging (Federal Judicial
Center 1985)
Litigation in America, Second Printing (reprinted
from vol 31, no. 1, UCLA Law Review October 1983)

Articles: Confronting Juror Bias: A Behavioral Science
Perspective, by Dr. Donald E. Vinson (For the Defense
March 1985)
Deterring and Defeating Frivolous and Abusive
Litigation, by Ronald L. Olson and Stephen J.
McConnell (For the Defense January 1985)
Unsettling Issues About Settling Civil Litigation, by
Howard Bedlin and Paul Nejelski (Judicature, vol. 68,
no. 1 June-July 1984)
What the Public Can Expect, by Robert B. McKay
(Judge's Journal)

Court Papers: Pre-trial Orders Nos. 1 and 2, (Civil Jury and
Non-Jury), by Roger J. Miner, U.S. District Judge

Topic Outline: Law and the Judicial System (Part A)
Civil Procedure (Part B)

Part A: Law and the Judicial System

I. Sources of Law

- (a) Federal and state constitutions
- (b) Common law
- (c) Statutes
- (d) Rules of court
- (e) Finding the sources

II. Categories of Law

- (a) Law and equity
- (b) Public and private
- (c) Civil and criminal

- (d) Substantive and procedural
- (e) Classifications of substantive law

III. Organization of the Judicial System

- (a) Historical background
- (b) State and federal courts
- (c) Selection and qualification of judges
- (d) Responsibilities of judges, lawyers and litigants

Part B: Civil Procedure

I. Jurisdiction of the courts, commencement of the action and other preliminary considerations

- (a) Subject matter jurisdiction
- (b) Personal jurisdiction
- (c) Service of process
- (d) Venue
- (e) Statutes of limitation

II. Pleadings and Parties

- (a) General theories
- (b) Complaint, answer, counterclaim and reply
- (c) Joinder of parties
- (d) Impleader
- (e) Intervenor

III. Discovery

- (a) Purposes
- (b) Procedural devices
- (c) Discoverable and non-discoverable information
- (d) Resolving discovery disputes
- (e) Controlling the abuses of discovery

IV. Accelerated Judgment

- (a) Failure to state a claim
- (b) Judgment on the pleadings
- (c) Summary judgment
- (d) Failure to prosecute
- (e) Judgment by default
- (f) Voluntary dismissal

V. Trials

- (a) Calendar practice and pre-trial submissions
- (b) Jury and non-jury; joint and consolidated
- (c) Selection of jury (voir dire)
- (d) Trial procedure
- (e) Rules of evidence
- (f) Verdict or decision

VI. Appeals

- (a) Finality rule
- (b) Treatment of factual determinations
- (c) Mechanics of appeal and cross-appeal
- (d) Oral argument
- (e) Powers of appeals courts

VII. Dealing with delay

- (a) Scheduling orders
- (b) Sanctions for pre-trial delay
- (c) Incentives to settle
- (d) Penalties for "brinksmanship"

VIII. Frivolous litigation

- (a) Defined
- (b) Identification at early stages
- (c) Sanctions for frivolous litigation
- (d) Proposals to curb abuse

IX. Alternate Means of Dispute Resolution (ADR)

- (a) Perceived need for ADR - expense, delay and judicial overload in civil litigation
- (b) Arbitration
- (c) Summary jury trials
- (d) Mediation
- (e) Mini-trials
- (f) Other proposals

X. Complex, Protracted and Repetitive Litigation

- (a) Class actions
- (b) Interpleader
- (c) Multi-district litigation in federal courts
- (d) Jury or non-jury
- (e) Management of asbestos cases

MODULE 2

Required Readings (to be completed before first class):

Book: Criminal Procedure in a Nutshell -
Constitutional Limitations, by Israel and LaFave
(West Publishing Co. 1980)

Manual: Federal Criminal Practice Manual
(Admin. Office of the U.S. Courts 1977)

Court Papers: Pretrial Order for Criminal Cases, by
Roger J. Miner, U.S. District Judge

Topic Outline: Procedure in Criminal Prosecutions (Part C)

Part C: Procedure in Criminal Prosecutions

I. Classification of Offenses and Initiation of Prosecution

- (a) Felonies, misdemeanors and petty offenses
- (b) Indictment, information and complaint
- (c) Arrest warrant, summons, citation

II. Initial Appearance and Bail

- (a) Advice of rights
- (b) Purpose of bail
- (c) Types of bail
- (d) Bail hearings and appeals
- (e) The Federal Bail Reform Act of 1984

III. Right to Counsel

- (a) When it attaches
- (b) Proceedings to which it applies
- (c) Indigent defendants
- (d) Waiver
- (e) Effective assistance

IV. Preliminary Examination

- (a) Purpose
- (b) Time constraints
- (c) Admissible evidence
- (d) Effect of indictment

V. Grand Jury

- (a) How constituted
- (b) Function
- (c) Proceedings
- (d) Refusal to testify
- (e) "Transactional" and "use" immunity

VI. Arraignment

- (a) Pleas of not guilty and nolo contendere
- (b) Pleading guilty
- (c) Withdrawal of plea

VII. Discovery

- (a) The "open file" policy
- (b) Requests for discovery
- (c) Information discoverable
- (d) Obligations of the prosecutor

VIII. Negotiated pleas

- (a) Who negotiates
- (b) What can be "bargained"
- (c) Mechanics of negotiated pleas
- (d) Enforcing the "deal"

IX. Pretrial Motions

- (a) Effect of scheduling order; time limitations
- (b) Dismissal of indictment
- (c) Denial of speedy trial
- (d) Severance
- (e) Discovery and inspection
- (f) Change of venue

X. Suppression Motions - Evidentiary Hearings

- (a) Search and seizure
- (b) Confessions
- (c) Identification

XI. Defenses

- (a) Alibi
- (b) Insanity
- (c) Entrapment

XII. Trial

- (a) Order of proof; rules of evidence
- (b) Burdens and presumptions
- (c) Openings, arguments and instructions
- (d) Jury and non-jury
- (e) Motion for judgment of acquittal
- (f) Verdict

XIII. Sentence

- (a) Procedure
- (b) Pre-sentence report
- (c) Suspended sentence and probation
- (d) Fines
- (e) Restitution
- (f) Imprisonment and parole

XIV. Appeals

- (a) Time for appeal
- (b) How appeal is taken
- (c) What may be reviewed
- (d) Standards of review
- (e) Disposition

XV. Post-conviction Remedies

- (a) Motions for new trial
- (b) Habeas corpus
- (c) Coram nobis
- (d) Restrictions on collateral attack

COURT SYSTEMS MANAGEMENT REFERENCE GUIDE

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FINAL EXAM

Legal Environment of Court Management

Instructor: Judge Roger J. Miner

August 3, 1985

(A maximum time of three hours will be allowed. All answers must be written in blue examination books).

(1)

(a) Substantive law is divided into two major classifications -- public law and private law. Define public law and private law, describe the major categories of law included in each classification, and briefly discuss the types of litigation encompassed in each category.

(b) A statute may be invalid because it conflicts with some more authoritative legislative source. Set forth, in order of importance, the hierarchy of legislative sources, with a brief description of each item in the hierarchy.

(c) The public has a right to expect certain qualities in its Judges. Describe those qualities, discuss the functions Judges should be expected to perform, and give your opinion, supported by reasons, of the manner in which Judges should be selected.

(2)

I.M. Rich, bon vivant, man about town, and long-time resident of New York City, was driving his 1985 Rolls Royce convertible on Broadway in New York County (Manhattan) on August 1, 1985 at 2:00 P.M. As he started through the intersection of Broadway and 42nd Street with a green traffic light in his favor, the Rolls was struck on the driver's side by the front of a truck proceeding on 42nd Street. The truck was owned by the Copious Catfood Corporation and operated by the corporation's owner and

sole employee, Kitty Litter, a resident of Bayonne, New Jersey. The corporation was incorporated in the State of New Jersey and had its sole place of business in Bayonne. Although Ms. Litter was uninjured in the accident, Mr. Rich sustained fractures of the tibia and humerus. When Mr. Rich was slow in producing his automobile registration for Lacey Cagney, the New York City Police Officer who investigated the accident, he was struck on the nose by the officer's nightstick and sustained a fracture of that part of his body as well. Suffering from the various pains and indignities inflicted upon him, Mr. Rich consulted the well-known negligence lawyer, T.T. (Tommy) Tort. The following is a verbatim transcript of the advice given by Attorney Tort to Mr. Rich:

(31) You have two distinct claims, and you must bring two separate actions -- one against Ms. Litter and her corporation for negligence and one against Lacey Cagney for violating your civil rights by the use of excessive force. You can sue the negligence action only in Supreme Court, New York County, and you can sue the civil rights claim only in the U.S. District Court for the Southern District of New York. If you wish to pursue a state law tort claim for assault and battery against Cagney, you must commence a separate action in State Supreme Court, because that claim cannot be combined with the federal civil rights law claim in the federal court action. Since a suit for assault and battery involves a claim in equity and would cause a great deal of confusion, I would recommend against it.

The action will be commenced in each court when I have a summons and complaint, subscribed by me, served on the defendants. My process server will effect service by placing the papers in a mail slot or slipping them under a door in order to avoid unnecessary confrontations. The procedural law gets very tricky here, because Copious Catfood must be served within the State of New York in order for the State Supreme Court to acquire personal jurisdiction of the corporation. After the action is commenced, I shall serve my standard set of 725 interrogatories on each defendant. When your deposition is taken, I shall direct you not to answer any questions you appear to have difficulty with. Although defendant Litter denies that you had a green light, and defendant Cagney denies striking you, there is no reason that we cannot be successful in a motion for summary judgment. If we are not successful

2

on the motion, I shall delay the trial of the case for as long as possible by the use of various procedural devices, since the principal witness for the defendants is 103 years of age and is quite ill. If she dies, there is no way that her testimony can be presented in court. It should be quite easy to delay, because all the courts operate on a master calendar system, and no individual Judge seems to know which end is up in any specific case.

If it does become necessary to go to trial, you will find that jury selection is my specialty. I am permitted to conduct the voir dire examination in any manner I choose, and I usually take two to three weeks for the selection process in order to condition the jury to my way of thinking. My opponent probably will have very little experience as a trial lawyer, and I intend to exploit my advantage in that respect. The Judge will not be able to do anything to correct the imbalance in our abilities. Most lawyers agree that the job of the Judge is limited to making evidentiary rulings and instructing the jury. Finally, if the verdict goes against you in either state or federal court, you may appeal directly to the U.S. Supreme Court, where I am well known. My fee will be one-third of any recovery plus expenses.

Identify each item of incorrect advice, if any, given by Attorney Tort, state why the particular advice was erroneous and discuss some possible consequences of the improper information imparted by the attorney.

(3)

a. Write a brief essay on the right of the accused to the assistance of counsel in criminal prosecutions. The essay should discuss the derivation of the right; appointment of counsel for indigent defendants; the types of charges and the stages of the proceedings to which the right applies; waiver of counsel; the right to proceed pro se; the standard for determining when the assistance of counsel has been effective; and the problems involved in the joint representation of co-defendants.

b. Define and give examples of:

- (1) Evidence
- (2) Testimony
- (3) Proof
- (4) Direct evidence
- (5) Circumstantial evidence
- (6) Irrevelant evidence
- (7) Competent evidence
- (8) Hearsay evidence

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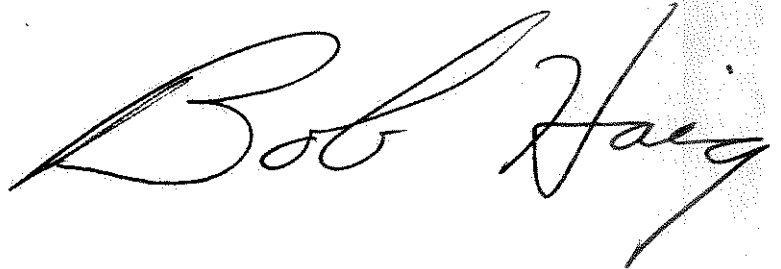
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Dear Speakers at the New York State Bar
Association Federal Court Practice Program:

In the event that you have not yet seen it, I
enclose for your information a copy of part of page 5 of the
July 1985 State Bar News which describes the album and the
coursebook for the Federal Court Practice program this past
year.

Sincerely,



RLH/mah
Enclosure
cc: Terence H. Benbow, Esq.

For Judge Miner JTF

Robilotto still a money manager

Despite conviction, ex-Teamsters boss is trustee of 2 union funds

By PATRICK KURP

The Knickerbocker News

Former Albany Teamsters union chief Nicholas M. Robilotto, who was convicted three years ago of federal tax evasion, remains trustee of two union pension and benefit funds.

In a recent decision, U.S. District Court Judge Roger Miner ruled that a federal jury must decide whether the U.S. attorney's office agreed to allow Robilotto to continue administering the funds, which control millions of dollars in union investments.

Shortly after his decision, Miner left his federal judgeship to become judge of the U.S. Second Circuit Court of Appeals in New York City.

Robilotto's case has not yet been assigned to another judge, an action Robilotto's attorney, Jill Okun, said she expects "shortly."

In the meantime, both sides have agreed that Robilotto may retain his trusteeships.

In May 1982, Robilotto, 73, of Rotterdam, pleaded guilty to three counts of tax evasion. The indictments charged him with failing to report \$24,502 in income from 1975 to 1977.

Forty-two other counts of misusing union funds were dismissed as part of his plea agreement. Some of the dismissed charges accused Robilotto of receiving \$4,800 in duplicate expense reimbursements for attending trustee meetings.

Miner sentenced Robilotto to an 18-month suspended

prison term, fined him \$15,000 and placed him on probation for four years.

Robilotto also agreed not to serve as an officer of any union organization for the balance of his probation. In January 1983, he resigned his post as president of Local 294, a job he had held for more than 20 years.

But in August 1983, the U.S. Justice Department said Robilotto had violated the terms of his plea agreement by remaining administrative consultant and trustee of the New York City-based Albany Area Trucking and Allied Industry Health and Welfare Fund and the Utica-based New York State Teamsters Council Health and Hospital Fund.

Federal authorities estimate Robilotto collects about \$10,000 in expenses annually from the trusteeships.

Robilotto and Okun argued that Assistant U.S. Attorney David R. Homer explicitly agreed to allow Robilotto to remain trustee of the union funds.

That agreement, they said, outweighed a federal law that bars labor officials from any union activity for five years after a felony conviction.

Robilotto also argued that the government waited too long — 14 months — to raise their objection.

In his third argument against the government order, the union chief claimed that tax evasion does not constitute fraud, so that his resignation from the trusteeships is not required.

On the last point, Miner recently ruled against Robilotto and affirmed that tax evasion is a form of fraud under federal law.

But on the other claims, Miner ruled "there is no alternative but to require the trial of those other issues as soon as possible."



Robilotto

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A.B. Indiana University
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MARIO M. CUOMO

Mario M. Cuomo, 52nd Governor of the State of New York, tends to talk a great deal about his parents. And well he should. For the values he projects in his political vision of "the family of New York," expressed so eloquently in his January, 1983 inaugural address, are quite literally the values of family. In his book, *The Diaries of Mario M. Cuomo*, Mr. Cuomo has written that the lessons his Italian immigrant parents taught him had little to do with opera or Roman sculpture, but rather centered on the values of self-sacrifice and cooperation and compassion, the dignity of hard work, the preeminent importance of family and community ties to society as a whole. "What they gave me is what they gave our society," Mr. Cuomo writes, and "these beautiful lessons they taught so well I believe were a lot more permanent and more valuable."

Born on June 15, 1932, Mario Matthew Cuomo was the most studious of Immaculata and Andrea Cuomo's four children. Throughout his youth in South Jamaica, Queens, he worked in the family's small grocery store, which was open twenty-four hours a day, seven days a week. He attended Queens public schools and St. John's Prep, then graduated *summa cum laude* from St. John's University in 1953. A gifted college athlete, Mr. Cuomo considered a career as a professional baseball player and, in fact, played with the Pittsburgh Pirates farm team, but an injury cut short his career.

After graduating St. John's School of Law in 1956, he became confidential legal assistant to Judge Adrian Burke of the New York State Court of Appeals. Two years later he entered private practice and simultaneously taught at St. John's Law School as an adjunct professor, a position he held for 17 years. At the same time he served as chairman of the St. John's University Alumni Federation.

Mr. Cuomo first attracted public attention in 1972, when at the request of Mayor John Lindsay he arbitrated a bitter controversy over low income housing in Forest Hills. He had earlier settled a similar crisis in the Corona section of Queens. Mr. Cuomo's settlement in Forest Hills exacted compromises from both sides that preserved low-income housing in a middle-class neighborhood. His later much-acclaimed book, *Forest Hills Diary: The Crisis of Low-Income Housing*, published by Random House in 1974, contains his reflections on both the political and human implications of the dispute.

The ground swell of political support following the success in Forest Hills led to his appointment in January, 1975 as Secretary of State to Governor Hugh Carey. Taking on broad responsibilities in that position, he acted as a roving negotiator in statewide crises, settled the Co-op City rent strike controversy, was responsible for the first revision in more than seventy years of the state's lobbying laws, and convened the first statewide arson conference. Mr. Cuomo acted as a factfinder in the nursing home controversy, and his subsequent report led to the creation of the Moreland Act Commission and a Special Nursing Home Prosecutor.

In 1978 Mr. Cuomo was elected Lieutenant Governor. In his new position Mr. Cuomo added to the normal duties of the office responsibilities as chairman of the State's Urban and Rural Affairs Cabinets as well as leadership of the State Advisory Council on the Disabled. He also took on a new responsibility as the state's first Ombudsman and helped thousands of New Yorkers with grievances against the state through the maze of state agencies and regulations.

Mr. Cuomo formally declared his candidacy for the Democratic nomination for Governor in March of 1982. He waged a brilliant come-from-behind primary race to defeat New York City Mayor Ed Koch in September, 1982 and went on to defeat conservative Republican Lewis Lehrman in the general election, despite his being outspent by Lehrman three to one.

Since assuming office, Governor Cuomo has initiated programs that have resulted in the creation of private sector jobs and a stronger economy, reforms of the criminal justice system, improved state budget practices, an easing of the burden on counties through state assumption of the local share of many Medicaid costs, and a multimillion dollar program to provide permanent shelter for the homeless.

Eight days after taking office, he directed negotiations that resulted in the resolution of the tense, fifty-three hour Ossining prison takeover without bloodshed. He nominated the first woman to serve on the state's highest court and the first member of a minority to serve a full term on that court, the Court of Appeals. He vigorously - and successfully - campaigned for the multibillion dollar "Rebuild New York" bond issue which is repairing the state's transportation network and creating jobs.

By any standard, the vitality of New York State's economy under Mr. Cuomo is the sign of a highly successful administration. His most recent budget, approved this past April, combines tax cuts with increases in spending for vital social services, including increased aid to public schools, welfare recipients and localities. His \$50 million, three-year program to build housing for the homeless - Governor Cuomo is chairman of the National Governors' Association Task Force on the Homeless - is larger than the federal government's homeless program.

Mr. Cuomo's fiscal accomplishments prove that it is possible for government to be both progressive and pragmatic. But they also vindicate the set of assumptions with which the Governor began his administration. As he said in his inaugural address, "a technically balanced budget that fails to meet the reasonable needs of the middle class and the poor would be to us the emblem of hypocrisy." To the same extent that Governor Cuomo rejects the concept of government as simple accountancy, he is dismayed by the politics of slogans, bumper stickers and quick statements on television. He has, more than any political figure in recent memory, made a sustained personal effort to reach people through lengthy radio and television shows and through personal appearances at town meetings throughout the state. His ringing, straight-forward eloquence has attracted national attention, first for his inspirational keynote speech at the 1984 Democratic National Convention and subsequently for his thoughtful address at Notre Dame University on "Religious Belief and Public Morality" given from his perspective as a Catholic Governor.

Governor Mario M. Cuomo, in admiration of and appreciation for your concern with the well-being of all New York's citizens, for your contribution to the present and future life of New York State, for your use of the law as an instrument for change, and for your personal example as a moral leader, the Board of Trustees of New York Law School is deeply honored to confer upon you the degree of doctor of laws, *honoris causa*, with all the rights, privileges and honors thereunto appertaining.

BILL MOYERS

Bill Moyers, often compared to Edward R. Murrow in terms of the scope of his influence on broadcast journalism, believes that television is "for people who care about the life of the mind and the life of the country and want to do something about it."

In bridging "the life of the mind and the life of the country," Mr. Moyers has not only educated millions of Americans about the realities underlying their culture, but has performed a function that is the lifeblood of a democratic society: expanding people's awareness of their world that they might participate more creatively in it. "I'm a Jeffersonian," Mr. Moyers has said, "in that I believe if people know enough they will make better judgements. Everything I do is political in that its main purpose is to enlarge the viewer's sense of the world"

A direct line of development runs from Mr. Moyers' current position as senior news analyst and commentator for the CBS Evening News to the spring of his sophomore year at North Texas State College, where he was majoring in Journalism. Mr. Moyers wrote to then U.S. Senator Lyndon B. Johnson offering to help with the Senator's reelection campaign. Mr. Moyers spent the summer in Washington as a staff aide and subsequently transferred his studies to the University of Texas at Austin, where he worked at KTBC, a television station owned by Mrs. Johnson.

After graduation in 1956, Mr. Moyers left public affairs to study ecclesiastical history at the University of Edinburgh, Scotland, on a Rotary International Fellowship. Subsequently, he earned a divinity degree, with honors, from Southwestern Baptist Theological Seminary.

Mr. Moyers returned to politics in 1960 when Lyndon Johnson, then seeking the Democratic presidential nomination, asked his former aide to rejoin his Washington staff. Mr. Moyers remained as Johnson's special assistant through LBJ's eventual inauguration as Vice President in 1961. Mr. Moyers then resigned, over Johnson's protests, to work as Associate Director for Public Affairs of the Peace Corps. He was named Deputy Director of the Peace Corps in 1962 by President John F. Kennedy.

After the President's assassination in 1963, Mr. Moyers returned to the White House to become a key member of the Johnson Administration. Acting first as one of the President's chief advisors on domestic affairs, he was appointed the President's press secretary in 1965. At a time of escalating tension between the White House and the media, Mr. Moyers' candor earned him the enduring respect of the Washington press corps.

In 1966, again over the President's strenuous objections, Mr. Moyers resigned his post to become the publisher of *Newsday*, the Long Island daily newspaper. During his tenure at *Newsday*, the paper was substantially upgraded and received thirty-three major journalism awards, including two Pulitzer prizes. Mr. Moyers resigned in May, 1970 when Harry F. Guggenheim, *Newsday's* controlling owner, announced the sale of the paper to the Times-Mirror Company.

That summer, like the summer of his sophomore year, was to be a watershed for his later work. Armed with a notebook and a tape recorder, Mr. Moyers set out on a 13,000 mile odyssey through America "to hear the people speak for themselves," as he wrote in the preface to *Listening To America*, the best-selling book that emerged from those travels. In 1971, Mr. Moyers began to produce an unprecedented number of critically acclaimed public affairs programs, such as *Bill Moyers' Journal* and *Creativity*, on subjects as diverse as the American reality he had experienced. All of his subjects are indeed "political," but never doctrinal; all have a deeply moral message, but without a trace of moralism.

Thus it is not surprising to find that Mr. Moyers has received virtually every award the broadcast industry has to offer, including ten Emmy Awards, two George Foster Peabody Awards and the George Polk Award for political reporting. His public television series, *A Walk Through the Twentieth Century with Bill Moyers*, was named the outstanding informational series of 1984 by the Academy of Television Arts and Sciences. His public television series on creativity received the same award in 1981.

In addition to his other achievements, Mr. Moyers has been a trustee of the Rockefeller Foundation, a director of the Council on Foreign Relations, a member of the Board of Visitors of the John F. Kennedy School of Government at Harvard University, a director of Harte-Hanks Newspapers and a consultant for Cox Communications.

Bill Moyers, for your profound contributions to broadcast journalism, for your efforts in raising the awareness of the nation, for your struggle to direct the medium of television toward educational goals, the Board of Trustees of New York Law School is pleased and proud to confer upon you the degree of doctor of laws, *honoris causa*, with all the rights, privileges and honors thereunto appertaining.

ELLEN ASH PETERS

When Ellen Ash Peters was named Chief Justice of Connecticut's Supreme Court in 1984, Harry Wellington, Dean of the Yale Law School and John Marshall Harlan Visiting Professor at New York Law School for the 1985-1986 academic year, offered a concise description of her judicial bearing: "She is a person not captured by ideologies at all." Her respect for the stability of the law, according to Dean Wellington, is well balanced by her sensitivity to the need for the law to deal with changing times.

Justice Peters graduated Phi Beta Kappa from Swarthmore College in 1951 and subsequently attended Yale Law School, where she graduated *cum laude* in 1954. After serving as a law clerk to U.S. Circuit Court Judge Charles E. Clark for a year, and teaching law for another year at the University of California's Berkeley campus, she returned to Yale in 1956 as an assistant professor. She was appointed full professor in 1964 - the first woman to hold a tenured position at Yale Law School - and held the prestigious position of Southmayd Professor of Law there from 1975 to 1978. In 1978, the late Governor Ella Grasso named Justice Peters to the Connecticut Supreme Court, the first woman to hold that position since the Court was founded in 1711.

Among numerous awards and honors, Justice Peters received the first Ella Grasso Distinguished Service Medal in 1982 and the Yale Law School Distinguished Service Medal in 1983. Her professional activities include service on the Connecticut Judiciary Executive Committee and the Connecticut State-Federal Judicial Council, both since 1981, and service on the Connecticut Law Revision Commission between 1978 and 1984.

The balance between legal theory and reality has been a major concern in Justice Peters' literature. In several important articles - "Grant Gilmore and the Illusion of Certainty," (*Yale Law Journal*, 1982) and "Reality and the Language of the Law," (*Yale Law Journal*, 1981) - she probes the point of confluence between the formal, abstract structures of the law and the often undisciplined realities it is intended to regulate. After recounting Professor Gilmore's pedagogical premise that "certainty" is an illusion and that the object of legal education is the generation of further dialogue rather than a set of static, accomplished facts, she characterizes Gilmore's enduring message as follows: ". . . abandonment of the illusion of certainty did not signal nihilism, or anarchy, or anti-intellectualism. On the contrary, we learned . . . that the only legal certainty is the certainty of legal change." Similarly, in "Reality and the Language of the Law," she observes that because differing nomenclatures can change our perception of the same set of legal issues, "we can hope at most to find ways to illuminate reality, to search for recognizable patterns," which "by teaching us what is relevant . . . instruct us in what to overlook." She continues,

The great contribution of the law and schools is to educate us to different patterns of exclusion and inclusion. Each prism refracts . . . a different ray of light. Each, however, captures only a small fraction of reality. The effort to fuse the various refractions into a workable beacon is a challenge that is yet unmet.

In assuming her responsibilities as Connecticut's highest judicial officer, Justice Peters acknowledged the problem of the Court's growing caseload was indeed a serious one, but also expressed a sense of optimism about the Court's potential for charting new directions in the development of law and legal theory.

"We have to simultaneously move cases and move them fairly," she said in an interview after assuming the bench. "All of us, I think, have to be aware of the fact that those two goals are essential and are sometimes in conflict. When they come into conflict, the more important goal is to move cases fairly." "The role of the Supreme Court," she continued, "has to be to keep the law abreast of the needs of this century . . . and to keep our case law abreast of developments the legislature is concerned with."

Justice Ellen Ash Peters, distinguished legal scholar and esteemed jurist, in recognition of your invaluable contributions to the study of commercial law and to the administration of justice, the Board of Trustees of New York Law School is pleased and honored to confer upon you the degree of doctor of laws, *honoris causa*, with all the rights, privileges and honors thereunto appertaining.

DONNA E. SHALALA

In 1980 Donna E. Shalala became the tenth President of Hunter College of The City University of New York. In an uncannily precise way, the presidency of Hunter encapsulates the widely variegated interests and accomplishments of her career: a deep commitment to educational excellence, a long-standing involvement with the women's movement, an illustrious academic career in several of New York's major educational institutions, administrative responsibilities in both city and federal government, and a love of this, her adopted city.

A native of Cleveland, Dr. Shalala graduated from Western College for Women in Oxford, Ohio in 1962. After serving two years in the Peace Corps, she entered Syracuse University's Maxwell School of Citizenship and Public Affairs where she completed her doctoral work in urban planning in 1970.

During the next several years her academic career flourished in New York, first as an assistant professor at City University's Bernard M. Baruch College and subsequently as tenured professor and chairwoman of the graduate program in politics and education at Teachers College of Columbia University. Her publications, which number more than 40, include articles, monographs and books in the fields of urban affairs and the political economy of schools. Dr. Shalala's expertise in municipal finance was firmly established in 1971 with the publication of "New York City - Statehood: An Idea Whose Time Has Passed," a report written for the Citizens Union. Her other publications include *The City and the Constitution*, the definitive study of the 1967 New York State Convention, and *The Property Tax and the Voters*, a pioneering analysis of state finance referenda.

In 1975 Dr. Shalala received widespread recognition for her work as a director and treasurer of the Municipal Assistance Corporation, the agency convened to help solve New York City's financial crisis. In 1977 she became one of the leading women in the Carter Administration where she served as Assistant Secretary for Policy Development and Research of the United States Department of Housing and Urban Development. During her three-year tenure at HUD, she initiated a national mortgage credit program for women together with an extensive study of the problems of women in urban environments. Concurrently, she was instrumental in founding the Washington Women's Network, one of the most prestigious and influential women's movement organizations in the country.

As an extraordinarily creative member of New York's academic and business communities, Dr. Shalala has dedicated her energies to the linking of academic achievement with the substantive needs of the community surrounding the university. "A public college has to have a commitment to excellence in scholarship, but it also has a very special relationship to other public institutions," she said in an interview shortly after assuming the presidency of Hunter. For Dr. Shalala, academic excellence is not a goal in itself, but rather the medium through which the university fulfills "its mission of improving the quality of city life."

Dr. Shalala is the recipient of numerous awards and honors, including the Young Scholar Award of the American Association of University Women (1976) and election to the National Academy of Public Administration (1975). During those same years she was a John Simon Guggenheim Fellow. She is a Governor of the American Stock Exchange, Vice President of the American Political Science Association, Trustee of the Committee for Economic Development, Charles F. Kettering Foundation, and a Director of the Institute for International Economics, the Children's Defense Fund and the American Arbitration Association. In addition, Dr. Shalala is a member of the Governor of New York's Council on Fiscal and Economic Priorities and is president of the Women's Forum, a group whose membership includes many of the nation's highest women achievers.

Dr. Donna Edna Shalala, in recognition of your outstanding academic accomplishments, your commitment to educational excellence and vocational opportunity for women, and your dedicated efforts on behalf of New York City, the Board of Trustees of New York Law School is pleased and proud to confer upon you the degree of doctor of laws, *honoris causa*, with all the rights, privileges and honors thereunto appertaining.

ROBERT B. MCKAY

Conferred April 17, 1985

Robert B. McKay was born in Wichita, Kansas, in 1919 and is a graduate of the University of Kansas and the Yale Law School. The timely conclusion of his legal education was interrupted by World War II and military service in which he rose to the rank of captain (1941-46).

His public service continued after the war when he served on the legal staff at the Department of Justice (1947-50), after which he moved to academia at Emory University (1950-53), and later at New York University. During a career begun at New York University in 1953, he rose to the rank of professor of law, which he currently holds, and served the Law School and the University as Dean of the Law School from 1967 to 1975, a period of significant growth and productivity at that prestigious institution. Concurrently, he continued his scholarly pursuits with the writing of numerous monographs, articles and reviews, as well as through his involvement with the Aspen Institute for Humanistic Studies and the Institute for Judicial Administration.

At the same time that he was involved in this extraordinary academic career, he served New York City as Chairman of the Mayor's Rent Control Committee, Chairman of the Board of Correction, Chairman of the Citizens Union, and President of the Legal Aid Society of New York City. His public service to the State of New York included the Chairmanship of the Special Commission on Attica and that of the Attorney General's Advisory Committee on Ethics. At the bar, he rose from numerous committee chairmanships to the presidency of the Association of the Bar of the City of New York, a position he currently honors. At all times he has been known for his humanitarian qualities, his strong understanding of social problems and his extraordinary erudition.

In recognition of a career vital and productive, Robert B. McKay has been honored by seven universities and many associations. New York Law School hereby joins these ranks with the conferral of the degree of Doctor of Laws, *honoris causa*, on Robert B. McKay.



Federal Bar Council

ALAN J. HRUSKA
President

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Annual Judicial Conference

**SECOND JUDICIAL CIRCUIT
OF THE
UNITED STATES**

**September 5 to
September 8, 1985**

**HOTEL HERSHEY & COUNTRY CLUB
HERSHEY, PENNSYLVANIA**

THE CONFERENCE

The Judicial Conference of the Second Judicial Circuit is held annually pursuant to 28 U. S. C. § 333. It is composed of the Federal Circuit and District Judges in the Circuit and representatives of the Department of Justice, the Administrative Office of the United States Courts, the Federal Judicial Center, the bar associations and the law schools in the Circuit, and other invited members of the Bench and Bar. Hon. Thomas J. Meskill is the Chairman for this Conference.

THURSDAY, SEPTEMBER 5

2:45 P.M. MEETING OF THE UNITED STATES
Sharp JUDGES OF THE SECOND JUDICIAL
 CIRCUIT—CASTILIAN ROOM

This is a meeting in executive session for the Circuit Justice and the Judges of the Court of Appeals for the Second Circuit, the Judges of the United States District Courts within the Second Circuit and members of the Administrative Office of the United States Courts and the Federal Judicial Center. No other persons are to be present. The executive session will be called to order in the Castilian Room at 2:45 P.M.

6:00 P.M. WELCOMING SOCIAL HOUR

All conferees and their guests are invited for pre-dinner cocktails and hors d'oeuvres which will be served in the Fountain Lobby and on the Front Veranda.

7:00 P.M. DINNER

Will be served both in the Circular Dining Room (off the Fountain Lobby) and the Garden Terrace West (next to the Circular Dining Room off the Fountain Lobby).

FRIDAY, SEPTEMBER 6

THE GARDEN TERRACE

9:15 A.M. **PRESIDING AND REPORTING ON THE**
Sharp* **WORK OF THE SECOND CIRCUIT**

HON. WILFRED FEINBERG, Chief Judge, United
States Court of Appeals for the Second Cir-
cuit

REMARKS

HON. THURGOOD MARSHALL, Associate Justice,
Supreme Court of the United States and
Circuit Justice for the Second Circuit

COMPREHENSIVE CRIME CONTROL ACT OF 1984

I.

10:00 A.M. A. **AN OVERVIEW OF THE NEW ACT**

to

11:00 A.M. B. **PREVENTIVE DETENTION; NEW BAIL
PROVISIONS; AND FORFEITURES**

Moderator: HON. CHARLES L. BRIEANT
Judge, United States District
Court

Panelists: KENNETH R. FEINBERG
Washington, D.C.

BART M. SCHWARTZ
New York, N.Y.

ROBERT B. FISKE, JR.
New York, N.Y.

* All conferees and their guests are invited to attend and are requested to be in the Garden Terrace a few minutes early so that the meeting can start promptly. Attendance by all conferees at all general meetings is expected.

(Coffee
Break
11:00 A.M.
to
11:15 A.M.)

II.

11:15 A.M. A. **SENTENCING LAW REVISIONS AND
to REFORM**

1:00 P.M. B. **THE NEW INSANITY DEFENSE**

Moderator: PROF. JAMES JACOBS
New York University School
of Law

Panelists: HON. STEPHEN G. BREYER
Circuit Judge, United States
Court of Appeals, First
Circuit

HON. MARVIN E. FRANKEL
New York, N.Y.

EARL J. SILBERT
Washington, D.C.

1:00 P.M. **LUNCHEON**

In the Circular Dining Room and the Castilian Room (Luncheon will also be available, for those who desire it, at the Country Club; reservations for luncheon at the Country Club should be made in advance.)

6:15 P.M. **BAR ASSOCIATION COCKTAIL PARTY**

The Bar Associations of the States of Connecticut, New York and Vermont, the Federal Bar Council, the New York County Lawyers' Association and The Association of the Bar of the City of New York cordially invite all conferees and their guests to this party. The Committee requests that there be no private cocktail parties at this time. Weather permitting, the party will be held outside in the Formal Gardens.

Presiding: HON. WILFRED FEINBERG
Chief Judge, United States
Court of Appeals, will wel-
come the guests and introduce
the toastmaster.

Toastmaster: HON. JOSEPH M. McLAUGHLIN
Judge, United States District
Court

Introductions: Federal Judges appointed since
the last Conference will be in-
troduced by the HON. JOSEPH
M. McLAUGHLIN.

Speaker: HON. SOL WACHTLER
Chief Judge, New York Court
of Appeals

WORKSHOPS

9:00 A.M.
to

11:50 A.M.

(Coffee
break to be
announced)

All judges and conferees will be assigned to workshops on an alphabetical basis. The workshops are intended to encourage discussions of, and the sharing of experiences relating to, the topics presented at the Friday morning session. In addition, the workshops may wish to consider such subjects as:

- Policy considerations of new preventive detention and bail provisions
- The new provisions in practice
- Increased fine levels and restitution procedures
- New forfeiture and “freezing” provisions
- Victim compensation program
- Expansion of federal jurisdiction
- New trademark counterfeiting provisions for civil cases

To enable the workshops to have meaningful consideration of the Conference subject matter, it is expected that the conferees will actively participate in the discussions.

Workshop A: HON. JOHN F. KEENAN
(Garden Judge, United States
Terrace) District Court
and
STANLEY S. ARKIN
New York, N. Y.

Workshop B: HON. WARREN W. EGINTON
(Mosaic Judge, United States
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(Java Room) Judge, United States
District Court
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Workshop E: HON. FRANKLIN S. BILLINGS
(Castilian Room) Judge, United States
District Court
and
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Brooklyn, N. Y.

12:00 P.M. to 12:30 P.M. REPORTS FROM EACH OF THE WORKSHOPS; FOR ALL CONFEREES—THE GARDEN TERRACE
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All conferees and their guests are cordially invited to this reception and cocktail party and are asked to arrive promptly at 6:30. The reception will be held in the Fountain Lobby and on the Front Veranda.
7:30 P.M. CONFERENCE DINNER DANCE
(Formal/Black Tie)—Dinner in the Garden Terrace. Dancing with music by the Tom Darlington Band.

GENERAL INFORMATION

1. *Conference Desk.* On Thursday, Friday and Saturday, September 5-7, there will be a Conference Desk in the lobby near the Hershey Registration Desk. Most Conference materials are normally distributed by mail in advance of the Conference. Additional copies and other materials will be available at the Conference Desk. Please check in at the Conference Desk before registering. Information regarding scheduled events and recreational facilities will also be available at the Hotel Hershey Hospitality Desk.

2. *Meals.* Meals will be served in the Main Dining Room at the following times (unless otherwise indicated in this program):

Breakfast..... 7:00 to 9:30 A.M.
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Afternoon Tea 4:30 P.M. (Main Lobby)
Dinner..... Will be as indicated in program.

Men are requested to wear jackets at dinner. Shorts are permissible at breakfast and lunch.

The Lamp Post Sandwich Shop (on ground floor) provides lighter meals from 8:30 A.M. to 5:30 P.M.

3. *Gratuities.* A service charge of \$9.00 per person is added to room and meal charges which covers all gratuities to hotel service personnel.

PLANNING AND PROGRAM COMMITTEE

HON. WILFRED FEINBERG, *Chief Judge*

BARRY H. GARFINKEL, *Chairman*

RAYMOND W. BECKWITH	ROBERT B. MCKAY
HON. NAOMI R. BUCHWALD	HON. THOMAS J. MESKILL
HON. JOSÉ A. CABRANES	HENRY G. MILLER
HON. RICHARD J. CARDAMONE	IRA M. MILLSTEIN
JULIUS L. CHAMBERS	ARCHIBALD R. MURRAY
LOUIS A. CRACO	HON. EUGENE H. NICKERSON
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HON. CONRAD B. DUBERSTEIN	HON. JAMES L. OAKES
ROBERT B. FISKE, JR.	NORMAN REDLICH
HON. MARVIN E. FRANKEL	LEON SILVERMAN
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HON. MORRIS E. LASKER	

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HON. MORRIS E. LASKER	

WILLIAM P. FRANK
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ELAINE B. GOLDSMITH
Secretary of the Conference

MS. MARILYN P. A. SEICHTER, Hartford, Connecticut
 MS. EILEEN SHAPIRO AND MR. RAYMOND LEVIN, New York, New York
 MRS. SHIRLEY ADELSON AND MR. ELWOOD SIEGEL, New York, New York
 MR. JOHN S. AND MRS. GOLDIE ALEASI SIFFERT, New York, New York
 MR. EARL J. SILBERT, Washington, D. C.
 MR. ROBERT L. SILLS, New York, New York
 MR. LAWRENCE A. SILVERMAN, New York, New York
 MR. LEON AND MRS. RITA SILVERMAN, New York, New York
 HON. RALPH W. AND MRS. BARBARA ANNE SMITH, Jr., Albany, New York
 MR. STUART A. AND MRS. HELAINE L. SMITH, New York, New York
 MR. EUGENE P. SOUTHER, New York, New York
 MR. JAMES F. AND MRS. MARGARET M. STAPLETON, Stamford, Connecticut
 HON. SAMUEL B. AND MRS. JEANE STERRETT, Washington, D. C.
 MR. CHARLES E. AND MRS. GILLIAN J. STEWART, III, Poughkeepsie, New York
 MR. CARTER H. AND MRS. NAN STRICKLAND, Syracuse, New York
 MR. RICHARD T. AND MRS. MAUREEN W. SULLIVAN, Buffalo, New York
 MR. LYMAN M. AND MRS. BETTY CAPPS TONDEL, Jr., New York, New York
 DEAN DAVID G. TRAGER, Brooklyn, New York
 MR. BASIL T. AND MRS. ELEANOR C. TSAKONAS, Danielson, Connecticut
 MR. JUSTIN L. AND MRS. LOUISE M. VIGDOR, Rochester, New York
 MR. KENNETH H. AND MRS. JOYCE G. VOLK, New York, New York
 HON. SOL WACHTLER, Albany, New York
 MR. JAMES A. WADE, Hartford, Connecticut
 HON. LAWRENCE E. AND MRS. MARY P. WALSH, Oklahoma City, Oklahoma
 PROF. ETTIE WARD, Jamaica, New York
 MS. LAURA A. AND MS. CAROLYN WARD, New York, New York
 HON. RUTH V. WASHINGTON, New York, New York
 MR. GEORGE AND MRS. JOAN B. WEISZ, New York, New York
 MR. EDWIN J. WESELY, New York, New York
 MRS. AUDREY STRAUSS AND MR. JOHN R. WING, Brooklyn, New York
 MR. LEONARD F. AND MRS. MARY C. WING, Jr., Rutland, Vermont
 MR. GEORGE B. AND MRS. ADRIENNE G. YANKWITT, New York, New York
 MR. PETER L. AND MRS. ESTELLE PARSONS ZIMROTH, New York, New York
 MS. JACQUELINE ZINS AND MR. GERSON ZWEIFACH, Washington, D. C.

Annual Judicial Conference

SECOND JUDICIAL CIRCUIT

OF THE

UNITED STATES

Hershey, Pennsylvania

September 5-8, 1985

List of Those Expected To Attend

HON. THURGOOD & MRS. CECILIA MARSHALL, Associate Justice of the Supreme Court of the United States and Circuit Judge for the Second Circuit

Judges of the Second Circuit and Spouses/Guests

HON. FRANK X. AND MRS. ANGELA ALTIMARI, Uniondale, New York
 HON. JOHN R. BARTELS, Brooklyn, New York
 HON. FRANKLIN S. AND MRS. PAULINE BILLINGS, Jr., Woodstock, Vermont
 HON. DUDLEY B. AND MRS. LUCIA T. BONSAI, New York, New York
 HON. HENRY AND MRS. ISHBEL W. BRAMWELL, Brooklyn, New York
 HON. CHARLES L. AND MRS. VIRGINIA W. BRIANT, New York, New York
 HON. VINCENT L. AND MRS. SALLY BRODERICK, New York, New York
 HON. ELLEN BREE BURNS, New Haven, Connecticut
 HON. JOSÉ A. AND MS. KATE STITH CABRANES, Hartford, Connecticut
 HON. JOHN M. AND MRS. IDA P. CANNELLA, New York, New York
 HON. RICHARD J. AND MRS. CATHERINE CARDAMONE, Utica, New York
 HON. ROBERT L. CARTER, New York, New York
 HON. T. EMMET AND MRS. GERTRUDE C. CLARIE, Hartford, Connecticut
 HON. ALBERT W. AND MRS. ANN COFFRIN, Burlington, Vermont
 HON. WILLIAM C. AND MRS. JANICE F. CONNER, New York, New York
 HON. MARK A. COSTANTINO, Brooklyn, New York

HON. JOHN T. AND MRS. JANE CURTIN, Buffalo, New York
 HON. T. F. GILROY AND MRS. STUART S. DALY, Bridgeport, Connecticut
 HON. PETER C. AND MRS. CORNELIA M. DORSEY, Hartford, Connecticut
 HON. KEVIN THOMAS AND HON. IRENE J. DUFFY, New York, New York
 HON. DAVID N. AND MRS. FLORENCE K. EDELSTEIN, New York, New York
 HON. WARREN W. AND MRS. MARGORIE B. EGINTON, Bridgeport, Connecticut
 HON. JOHN T. AND MRS. PEGGY P. ELFVIN, Buffalo, New York
 HON. WILFRED AND MRS. SHIRLEY FEINBERG, New York, New York
 HON. LEE P. AND MRS. MARIAN S. GAGLIARDI, White Plains, New York
 HON. I. LEO AND MRS. GRACE G. GLASSER, Brooklyn, New York
 HON. GERARD L. AND MRS. ELINOR GOETTEL, New York, New York
 HON. THOMAS P. AND MRS. CHRISTINE GRIESA, New York, New York
 HON. CHARLES S. AND MRS. MARY JANE P. HAIGHT, JR., New York, New York
 HON. JAMES S. AND MRS. HELEN V. HOLDEN, Rutland, Vermont
 HON. AMALYA L. KEARSE, New York, New York
 HON. JOHN F. AND MRS. DIANE R. KEENAN, New York, New York
 HON. WHITMAN AND MRS. ANN F. KNAPP, New York, New York
 HON. SHIRLEY WOHL KRAM, New York, New York
 HON. MORRIS E. AND MRS. TOY LASKER, New York, New York
 HON. PETER K. AND KATHLEEN B. LEISURE, New York, New York
 HON. PIERRE N. AND MRS. SUSANA LEVAL, New York, New York
 HON. MARY JOHNSON LOWE, New York, New York
 HON. LLOYD F. AND MRS. MARGARET MACMAHON, New York, New York
 HON. WALTER R. AND MRS. ELIZABETH P. MANSFIELD, New York, New York
 HON. NEAL P. AND MRS. NANCY I. MCCURN, Syracuse, New York
 HON. JOSEPH M. AND MRS. FRANCES E. MCLAUGHLIN, Brooklyn, New York
 HON. THOMAS J. AND MRS. MARY G. MESKILL, New Britain, Connecticut
 HON. CHARLES M. AND MRS. JEANNE METZNER, New York, New York
 HON. ROGER J. AND MRS. JACQUELINE A. MINER, Albany, New York
 HON. JACOB AND MRS. HELEN MISHLER, Uniondale, New York
 HON. CONSTANCE BAKER AND MR. JOEL W. MOTLEY, JR., New York, New York
 HON. HOWARD G. AND MRS. RUTH J. MUNSON, Syracuse, New York
 HON. EDWARD R. AND MRS. CATHERINE K. NEAHER, Brooklyn, New York
 HON. JON O. AND MRS. MARTHA S. NEWMAN, Hartford, Connecticut
 HON. EUGENE H. AND HON. MARIE-LOUISE S. NICKERSON, Brooklyn, New York
 HON. JAMES L. AND MRS. DEEDE OAKES, Brattleboro, Vermont
 HON. RICHARD AND MRS. LYNN OWEN, New York, New York
 HON. LAWRENCE W. AND PROF. CYNTHIA STRAKER PIERCE, New York, New York
 HON. THOMAS C. AND MRS. BYRD S. PLATT, Brooklyn, New York
 HON. GEORGE C. AND MRS. CAROL H. PRATT, New York, New York
 HON. LEONARD B. AND MRS. ANN SAND, New York, New York
 HON. CHARLES P. SIFTON AND MS. SUSAN ROWLAND, Brooklyn, New York
 HON. JOHN E. SPRIZZO, New York, New York
 HON. LOUIS L. AND MRS. BERIT STANTON, New York, New York

HON. CHARLES E. AND MRS. VIRGINIA L. STEWART, JR., New York, New York
 HON. ROBERT W. AND MRS. ADELE HALL SWEET, New York, New York
 HON. MICHAEL A. TELESCA, Rochester, New York
 HON. CHARLES H. AND MRS. JOAN L. TENNEY, New York, New York
 HON. ELLSWORTH A. AND MRS. ROSEMARY VANGRAAPEILAND, Rochester, New York
 HON. JOHN M. WALKER, JR., New York, New York
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Conferees and Spouses/Guests

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 MR. EMMET J. AND MRS. K. CARROLL AGOLIA, Mineola, New York
 MR. THOMAS E. ALBRIGHT AND MS. PATRICIA PILETTE, New York, New York
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DATE	PROGRAM TITLE	CITY
(Seminars on other topics will be added).		
Sept. 6	New York State Tax Procedures & Penalties	Albany
Sept. 6	Workers' Compensation	Buffalo
Sept. 10	Estate Planning and	Albany
Sept. 11	Will Drafting (Practical Skills)	Buffalo
		NYC
		Syracuse
Sept. 13	New York State Tax Procedures & Penalties	NYC
Sept. 27	Appellate Practice in New York	NYC
Sept. 27	New York State Tax	Rochester
	Procedures & Penalties	
Oct. 1	Basic Real Estate Practice	Albany
Oct. 2	(Practical Skills)	Buffalo
		NYC
		Syracuse
		NYC
Oct. 4	Workers' Compensation	
Oct. 4	Administration of Estates	
	(Other Than Estate Taxes)	
	and Discovery Proceedings	
Oct. 4	Administration of Estates	Tarrytown
	(Other Than Estate Taxes)	
	and Discovery Proceedings	
Oct. 9	Ground Leases and Land Development	NYC
Oct. 10	Administration of Estates	Syracuse
	(Other Than Estate Taxes)	
	and Discovery Proceedings	
Oct. 10	Administration of Estates	Plainview
	(Other Than Estate Taxes)	
	and Discovery Proceedings	
Oct. 11	Appellate Practice in New York	Rochester
Oct. 11	Medical Malpractice	NYC
Oct. 16	Ground Leases and Land Development	Rochester
Oct. 16	Forming and Advising Businesses	Albany
Oct. 17	(Practical Skills)	Buffalo
		NYC
		Syracuse
		Binghamton
Oct. 18	Administration of Estates	
	(Other Than Estate Taxes)	
	and Discovery Proceedings	
Oct. 18	Uniform Commercial Code	NYC
Oct. 25	Medical Malpractice	Rochester
Oct. 25	The Canadian-American Law Institute	NYC
Oct. 25	Uniform Commercial Code	NYC
Oct. 25	Workers' Compensation	Syracuse
Oct. 25	Appellate Practice in New York	Albany
Oct. 29	Family Court Practice	Albany
Oct. 30	(Practical Skills)	Buffalo
		NYC
		Syracuse
		NYC
Oct. 30	Computer Law	
Nov. 1	Products Liability	Buffalo
Nov. 1	Update '85	Syracuse
Nov. 1	Administration of Estates	Rochester
	(Other Than Estate Taxes)	
	and Discovery Proceedings	
Nov. 1	Uniform Commercial Code	NYC
Nov. 7	Securities Law Update	NYC
Nov. 7	Administration of Estates	Albany
	(Other Than Estate Taxes)	
	and Discovery Proceedings	
Nov. 12	Foreign Investments in	NYC
	Real Property	
Nov. 12	Labor Law: Arbitration	Albany
Nov. 13	Labor Law: Arbitration	Albany
Nov. 14	Products Liability	NYC
Nov. 15	Medical Malpractice	Albany
Nov. 15	Uniform Commercial Code	NYC
Nov. 19	Basic Criminal Law Practice	Albany
Nov. 20	(Practical Skills)	Buffalo
		NYC
		Syracuse
		NYC
Nov. 21	Administration of Estates	
	(Other Than Estate Taxes)	
	and Discovery Proceedings	
Nov. 22	Update '85	NYC
Dec. 3	Update '85 (video replay)	Plattsburgh
Dec. 4	Update '85 (video replay)	Albany
Dec. 5	Update '85 (video replay)	Poughkeepsie
Dec. 6	Update '85 (video replay)	Jamestown
Dec. 6	Products Liability	Syracuse
Dec. 6	Tax Aspects of Real Estate Transactions: 1985	NYC

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1. Securities, Mergers and Acquisitions
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5. Representation of Canadian Business Clients in the United States

Each registrant will have the opportunity to attend one of these afternoon meetings. The workshops on Taxation; Securities, Mergers and Acquisitions; and Customs and Trade will be designed for specialists in those areas. The workshops on Labor and Representation of Canadian Clients will be designed primarily for the in-house counsel and attorneys representing clients establishing business operations in the United States. If your firm represents United States clients establishing business operations in Canada or Canadian clients establishing business operations in the United States, this program will provide a rare and outstanding educational opportunity. The registration fee is \$175 per person, which includes extensive printed course materials and luncheon. To register, use the order form on this page.



A companion program — the mirror image of this program — will be held in Toronto on November 8-9, 1985. This two-day program will feature lectures on: Advising the Foreign Investor on Developments Affecting the Establishment and Financing of Operations in Canada; Federal and Provincial Regulation of Foreign Investment in Canada; Product and Services Distribution in Canada; Income Taxation Considerations; The Application of U.S. Securities Laws; United States Tax Issues Affecting the Foreign Investor and the Foreign Seller in the United States Market; Understanding United States Trade Laws; and Labour and Immigration Issues Under United States Law, and Speciality Sessions (workshops) on: Taxation; Labour and Immigration; Securities; Import/Export, and Mergers and Acquisitions. This program is aimed primarily at Canadian lawyers, but will be of unique benefit to American lawyers who wish to attend. For further information about the Toronto session, contact Heather J. Walker, Program Coordinator, The Law Society of Upper Canada, Osgoode Hall, Toronto, Canada, M5H 2N6, telephone (416) 947-3379.